

11-25-2008

Meyers v. Hansen Clerk's Record v. 1 Dckt. 35534

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LAW CLERK

Vol. 1 of 3

IN THE

volume 1 of 2

SUPREME COURT

OF THE

STATE OF IDAHO

COPY

JAMES R. MEYERS and ANN T. MEYERS, husband and wife,

Plaintiff and

Respondents
VS.

GEORGE HANSEN

Defendant and

Appellant

Appealed from the District Court of the Seventh Judicial

District of the State of Idaho, in and for Bonneville County

Hon. Darren B. Simpson, District Judge

John L. runft, Esq. 1020 Main Street, Suite 400. Boise ID, 83702

Attorney for Appellant

Michael D. Gaffney, Esq. 2105 Coronado, Idaho Falls, ID 83404

Attorney for Respondent

Filed this Nov 25 day of 2008, 20

Clerk

Supreme Court Court of Appeals
Entered on AT&T

Deputy

35534

IN THE SUPREME COURT OF THE STATE OF IDAHO

JAMES R. MEYERS and ANN T.
MEYERS husband and wife,

Respondents,

vs.

GEORGE HANSEN

Appellant.

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the
Seventh Judicial District of the State of Idaho,
in and for the County of Bonneville

HONORABLE Darren B. Simpson, District Judge.

John L. Runft, Esq.
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Attorney for Respondent

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Case: CV-1993-0000822 Current Judge: Darren B. Simpson

James R Meyers, etal. vs. Jack _Kathleen Lott, etal.

Date	Code	User		Judge
2/22/1993	NEWC	DUGAN	New Case Filed	Ted V. Wood
		DUGAN	Civil Complaint, More Than \$1000, No Prior Appearance	Ted V. Wood
	SMIS	DUGAN	Summons Issued (4)	Ted V. Wood
3/10/1993	RTOS	SMOUT	Acknowledgment Of Service (3/8/93)	Ted V. Wood
3/15/1993		WILLIAMS	Civil Answer Or Appearance, More Than \$1000, No Prior Appearance	Ted V. Wood
	NOAP	WILLIAMS	Notice Of Appearance	Ted V. Wood
	NTOS	DUGAN	Notice Of Service	Ted V. Wood
3/18/1993		SMOUT	Civil Answer Or Appearance, More Than \$1000, No Prior Appearance	Ted V. Wood
	ANSW	DUGAN	Answer John Scoresby	Ted V. Wood
3/23/1993	NTOS	WILLIAMS	Notice Of Service	Ted V. Wood
4/23/1993	NOTC	WILLIAMS	Notice Of Substitution Of Counsel	Ted V. Wood
5/3/1993	HRSC	SIMMONS	Hearing Scheduled - Mot. To Amend (05/26/1993) Ted V. Wood	Ted V. Wood
	MOTN	SMOUT	Motion To Amend Verified Complaint	Ted V. Wood
	NOTH	SMOUT	Notice Of Hearing	Ted V. Wood
	MISC	SMOUT	Memorandum In Support Of Motion To Amend	Ted V. Wood
	MISC	SMOUT	Verified Complaint	Ted V. Wood
5/26/1993	INHD	SIMMONS	Interim Hearing Held - Mot. To Amend	Ted V. Wood
5/27/1993	ORDR	WILLIAMS	Order On Motion To Amended Complaint	Ted V. Wood
5/28/1993	MINE	WILLIAMS	Minute Entry	Ted V. Wood
6/8/1993	MOTN	DUGAN	Motn F/ordr F/service Outside The State	Ted V. Wood
	AFFD	DUGAN	Affidavit F/service Outside The State	Ted V. Wood
	ORDR	DUGAN	Order F/services Outside The State Issued	Ted V. Wood
6/9/1993		SMOUT	Civil Answer Or Appearance, More Than \$1000, No Prior Appearance (jack & Kathleen S. Lott)	Ted V. Wood
	ANSW	SMOUT	Answ Of D Lott To P's Amended Complaint	Ted V. Wood
6/15/1993	SMIS	WILLIAMS	Summons Issued	Ted V. Wood
8/30/1993	HRSC	SIMMONS	Hearing Scheduled - Motn To Compel (09/23/1993) Ted V. Wood	Ted V. Wood
	SMRT	DUGAN	Summons Returned	Ted V. Wood
	RTOS	DUGAN	Return Of Service 8/23/93	Ted V. Wood
8/31/1993	MOTN	DUGAN	Motion To Compel	Ted V. Wood
	NOTH	DUGAN	Notice Of Hearing	Ted V. Wood
9/9/1993	NTOS	PIERCE	Notice Of Service To Pl Answ To Def 1 Set	Ted V. Wood
	MISC	PIERCE	Interrogatories	Ted V. Wood
9/21/1993	MOOR	SIMMONS	Motion And Order For Entry Of Default (re: George Hansen, Ideal Consut., George Han Asso	Ted V. Wood
	MISC	SIMMONS		Ted V. Wood

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Case: CV-1993-0000822 Current Judge: Darren B. Simpson

James R Meyers, etal. vs. Jack Kathleen Lott, etal.

Date	Code	User		Judge
9/22/1993	NTOS	DUGAN	Notice Of Service (2)	Ted V. Wood
	NDDT	DUGAN	Notice Of Deposition Duces Tecum	Ted V. Wood
	NOTC	DUGAN	Notice Of Vacating Hearing	Ted V. Wood
9/23/1993	HRVC	SIMMONS	Hearing Vacated - Motn To Compel	Ted V. Wood
10/6/1993	NOTH	SMOUT	Notice Of Hearing	Ted V. Wood
	MOTN	SMOUT	Motion To Compel	Ted V. Wood
	NDDT	SMOUT	Notice Of Intent To Take Depo Duces Tecum	Ted V. Wood
10/8/1993	MOTN	DUGAN	Motion F/protective Ord'r	Ted V. Wood
	NOTH	DUGAN	Notice Of Hearing	Ted V. Wood
10/14/1993	NTOS	DUGAN	Notice Of Service	Ted V. Wood
11/12/1993	NTTD	WILLIAMS	Notice Of Intent To Take Deposition Duces Tec	Ted V. Wood
	MISC	SMOUT	Consent To Designation	Ted V. Wood
	MISC	SMOUT	App & Order F/admission Pro Hac Vice	Ted V. Wood
12/9/1993	NDDT	SMOUT	Amended Notc Of Intent To Take Depo (duces	Ted V. Wood
12/23/1993	MOTN	DUGAN	Motion F/dismissal /John Scoresby	Ted V. Wood
1/11/1994	NOTC	DUGAN	Notice Of Subpoena F/the Production Of	Ted V. Wood
	MISC	DUGAN	Documents (rule 45 (b))	Ted V. Wood
3/1/1994	NTOS	PIERCE	Notice Of Service Def 3rd Interrogatories	Ted V. Wood
3/7/1994	NOTC	DUGAN	Notc Of Subpoena F/production Of Docs (8)	Ted V. Wood
10/26/1994	NOPD	COOK	Notice Of Proposed Dismissal Issued	Ted V. Wood
10/31/1994	NTOS	BRUMFIE	Notice Of Service	Ted V. Wood
11/1/1994	HRSC	COOK	Hearing Scheduled - Status Conf. (01/04/1995) Ted V. Wood	Ted V. Wood
	ORDR	BRUMFIE	Order For Status Conference 01-04-95 9:15	Ted V. Wood
	MOTN	BRUMFIE	Motion For Retention On Calendar	Ted V. Wood
1/4/1995	INHD	COOK	Interim Hearing Held - Status Conf.	Ted V. Wood
	HRSC	COOK	Hearing Scheduled - M/withdraw (01/12/1995) Ted V. Wood	Ted V. Wood
	MOTN	STAPLES	Motn F/ Leave To W/draw & Notc Of Hearing	Ted V. Wood
1/5/1995	MINE	STAPLES	Status Conference Minute Entry	Ted V. Wood
	MOTN	WILLIAMS	Motn F/leave To Withdraw & Notc Of Hearing Th	Ted V. Wood
1/13/1995	HRVC	COOK	Hearing Vacated - M/withdraw	Ted V. Wood
1/17/1995	WDAT	BRUMFIE	Withdrawal Of Attorney-roger Cox For PI	Ted V. Wood
1/18/1995	ORDR	BRUMFIE	Order Granting Leave To Withdraw	Ted V. Wood
1/19/1995	AFFD	BRUMFIE	Affd Of Mailing (2) J R Meyers & Ann Meyers	Ted V. Wood
1/25/1995	AFFD	DUGAN	Affidavit Of Mailing James R. Meyers	Ted V. Wood
	AFFD	DUGAN	Affidavit Of Mailing Ann T. Meyers	Ted V. Wood
2/14/1995	MOTN	STAPLES	Motn For Dismissal W/prejudice	Ted V. Wood

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Case: CV-1993-0000822 Current Judge: Darren B. Simpson

James R Meyers, etal. vs. Jack ,Kathleen Lott, etal.

Date	Code	User		Judge
2/16/1995	NOAP	WILLIAMS	Notice Of Appearance (fax) Pro Se F/plaintiff	Ted V. Wood
2/17/1995	NOAP	WILLIAMS	Notice Of Appearance Pro Se F/plaintiff	Ted V. Wood
2/21/1995	NORT	WILLIAMS	Note Of Issue/request For Trial	Ted V. Wood
3/2/1995	HRSC	COOK	Hearing Scheduled - M/compel (03/22/1995) Ted V. Wood	Ted V. Wood
	MOTN	WILLIAMS	Def's Second Motion To Compel Discovery	Ted V. Wood
	NOTH	WILLIAMS	Notice Of Hearing - 3/22/95 @ 9:00 A.m.	Ted V. Wood
3/17/1995	HRSC	COOK	Hearing Scheduled - Status Conf. (03/29/1995) Ted V. Wood	Ted V. Wood
	NOAP	BRUMFIE	Notc Of App F P Walker & David E Day F/pl	Ted V. Wood
	ORDR	STAPLES	Order For Status Conference	Ted V. Wood
3/22/1995	HRVC	COOK	Hearing Vacated - M/compel	Ted V. Wood
3/23/1995	NTOS	STAPLES	Notice Of Service Of Answ To Inter & Request	Ted V. Wood
3/27/1995	MISC	DUGAN	Request F/telephonic Status Conference	Ted V. Wood
3/29/1995	INHD	COOK	Interim Hearing Held - Status Conf.	Ted V. Wood
	HRSC	COOK	Hearing Scheduled - Pre-trial Conference (11/22/1995) Ted V. Wood	Ted V. Wood
	JTSC	COOK	Jury Trial Scheduled (12/05/1995) Ted V. Wood	Ted V. Wood
	ORPT	STAPLES	Order Setting Pretrial Conference/trial	Ted V. Wood
	MINE	STAPLES	Minute Entry	Ted V. Wood
5/12/1995	NTOS	STAPLES	Notice Of Service	Ted V. Wood
	NDDT	STAPLES	Notice Of Deposition Duces Tecum	Ted V. Wood
5/16/1995	NDDT	WILLIAMS	Amended Notice Of Deposition Duces Tecum	Ted V. Wood
5/30/1995	NOTC	BRUMFIE	Notc Of Intent To Take Depositions Dueces Tec	Ted V. Wood
	NOTC	BRUMFIE	Notc Of Intent To Take Depo Dueces Tec	Ted V. Wood
6/5/1995	NTOS	BRUMFIE	Notice Of Service Response To Discovery	Ted V. Wood
6/30/1995	NTOS	WILLIAMS	Notice Of Service (discovery)	Ted V. Wood
7/14/1995	NOTC	BRUMFIE	Notc Of Subpoena For Prod Of Documentary Ev	Ted V. Wood
7/17/1995	HRSC	COOK	Hearing Scheduled - M/take Depo (08/23/1995) Ted V. Wood	Ted V. Wood
	MOTN	BRUMFIE	Motn F/leave To Take Depo Of Person Confined	Ted V. Wood
	NOTH	BRUMFIE	Notice Of Hearing 08-23-95	Ted V. Wood
8/2/1995	STIP	STAPLES	Stip To Permit Taking Depo Of Person Confined	Ted V. Wood
	MISC	STAPLES	In Prison	Ted V. Wood
	ORDR	WILLIAMS	Ordr Granting Leave To Depose Person Confined	Ted V. Wood
	MISC	WILLIAMS	In Prison Irp 30(a)	Ted V. Wood
8/23/1995	HRVC	POTTER	Hearing Vacated - M/take Depo	Ted V. Wood
8/30/1995	NOTC	BRUMFIE	Notice Of Association Of Counsel	Ted V. Wood
8/31/1995	NDDT	ORGILL	Notice Of Deposition Duces Tecum (j Scoresby)	Ted V. Wood

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Case: CV-1993-0000822 Current Judge: Darren B. Simpson

James R Meyers, etal. vs. Jack _Kathleen Lott, etal.

Date	Code	User		Judge
8/31/1995	NOTH	BRUMFIE	Notice Of Hearing - 09-13-95	Ted V. Wood
	NTTD	BRUMFIE	Notice Of Intent To Take Default	Ted V. Wood
	MOTN	BRUMFIE	Motn To Compel Motn For Prot Ord	Ted V. Wood
	AFFD	BRUMFIE	Affd Of Counsel In Supp Of Motn To Compel	Ted V. Wood
9/6/1995	HRSC	COOK	Hearing Scheduled - Motions (09/13/1995) Ted V. Wood	Ted V. Wood
9/12/1995	AFFD	STAPLES	Affd Of Francis P. Walker	Ted V. Wood
	MOTN	STAPLES	Motn To Vacate Hearing	Ted V. Wood
	HRVC	COOK	Hearing Vacated - Motions	Ted V. Wood
9/15/1995	AFFD	DUGAN	Affd Of Francis P. Walker	Ted V. Wood
	MOTN	DUGAN	Motion To Vacate Hearing	Ted V. Wood
9/18/1995	HRSC	COOK	Hearing Scheduled - M/compel (10/05/1995) Ted V. Wood	Ted V. Wood
	MEMO	ORGILL	Memorandum In Opposition To Def Motn T/compel	Ted V. Wood
9/21/1995	MOTN	DUGAN	Motion To Compel Answ To Interrogatories	Ted V. Wood
	NOTH	DUGAN	Notice Of Hearing	Ted V. Wood
	NOTH	DUGAN	Notice Of Hearing	Ted V. Wood
	NOTH	DUGAN	Notice Of Hearing	Ted V. Wood
	NDDT	DUGAN	Notice Of Deposition Duces Tecum	Ted V. Wood
	NDDT	DUGAN	Notc Of Depos Duces Tecum Audio Visual	Ted V. Wood
9/29/1995	NOTH	DUGAN	Notice Of Hearing	Ted V. Wood
	MOTN	DUGAN	Motn F/protective Ord & Request Attorney	Ted V. Wood
	MOTN	DUGAN	Fees & Costs	Ted V. Wood
	AFFD	DUGAN	Affidavit Of Reancis P. Walker	Ted V. Wood
10/3/1995	MISC	BRUMFIE	Brief In Support Of Motion To Compel/motn For	Ted V. Wood
	MISC	BRUMFIE	Protective Order	Ted V. Wood
10/4/1995	NTOS	ORGILL	Notc Of Serving Response To Defs' Fourth Set	Ted V. Wood
	MISC	ORGILL	Of Interr And Resp To Request F/production	Ted V. Wood
	NOTC	ORGILL	Notc Of Sub F/prod Of Documentary Evid(caldwe	Ted V. Wood
	NOTC	ORGILL	Notc Of Sub F/prod Of Documentary Evid(herge)	Ted V. Wood
	MOTN	BRUMFIE	Motn To Extend Date For Completion Of Disc	Ted V. Wood
	AFFD	BRUMFIE	Affd Of Francis P Walker	Ted V. Wood
	MINE	WILLIAMS	Minute Entry	Ted V. Wood
10/5/1995	MOTN	WILLIAMS	Motn To Extend Date F/completion Of Discovery	Ted V. Wood
	AFFD	WILLIAMS	Affidavit Of Francis P. Walker	Ted V. Wood
	INHD	COOK	Interim Hearing Held - M/compel	Ted V. Wood
	HRVC	COOK	Hearing Vacated	Ted V. Wood
	HRVC	COOK	Hearing Vacated - Jury Trial	Ted V. Wood

Date	Code	User		Judge
10/5/1995	ORDR	WILLIAMS	Order Of Self Disqualification	Ted V. Wood
10/11/1995	ORDR	BRUMFIE	Ord Of Assignment	Ted V. Wood
10/12/1995	CHJG	MOSS	Change Assigned Judge	Marvin M. Smith
10/13/1995	ORDR	SOUTHWIC	Order For Status Conference	Marvin M. Smith
10/23/1995	INHD	SOUTHWIC	Interim Hearing Held - Status Conferen	Marvin M. Smith
	MINE	SOUTHWIC	Minute Entry	Marvin M. Smith
	ORPT	SOUTHWIC	Order Setting Pretrial Conference/trial	Marvin M. Smith
	HRSC	SOUTHWIC	Hearing Scheduled - Pre-trial Conference (11/19/1996) Marvin M. Smith	Marvin M. Smith
	JTSC	SOUTHWIC	Jury Trial Scheduled (12/02/1996) Marvin M. Smith	Marvin M. Smith
	MISC	STAPLES	Request F/ Telephonic Status Conf	Marvin M. Smith
5/9/1996	CHJG	VASSOLER	Change Assigned Judge	Gregory S. Anderson
	ORDR	WILLIAMS	Order Of Assignment (to Judge Anderson)	Gregory S. Anderson
5/15/1996	ORDR	STAPLES	Order Of Self Disqualification	Gregory S. Anderson
5/16/1996	CHJG	VASSOLER	Change Assigned Judge	Richard T St. Clair
	ORDR	STAPLES	Order Of Assignment	Richard T St. Clair
	MISC	STAPLES	Request For Status Conf	Richard T St. Clair
5/17/1996	CHJG	VASSOLER	Change Assigned Judge (amended Change)	Brent J. Moss
	ORDR	WILLIAMS	Amended Order Of Assignment	Brent J. Moss
5/29/1996	NOTC	WILLIAMS	Notice Of Status Conference	Brent J. Moss
5/31/1996	MOOR	WILLIAMS	Motion And Order Disqualifying Judge	Brent J. Moss
6/5/1996	CHJG	VASSOLER	Change Assigned Judge	James C. Herndon
	ORDR	STAPLES	Order Of Assignment	James C. Herndon
6/12/1996	NOTC	BRUMFIE	Notice Of Telephonic Status Conference	James C. Herndon
7/8/1996	MINE	WILLIAMS	Minute Entry	James C. Herndon
7/10/1996	ORDR	WILLIAMS	Scheduling Order, Notice Of Trial Setting &	James C. Herndon
	MISC	WILLIAMS	Initial Pretrial Order	James C. Herndon
11/19/1996	HRHD	DUGAN	Hearing Held	Marvin M. Smith
12/2/1996	HRVC	DUGAN	Hearing Vacated - Jury Trial	Marvin M. Smith
1/13/1997	NOPD	STAPLES	Notice Of Proposed Dismissal Issued	James C. Herndon
	NOPD	STAPLES	Notice Of Proposed Dismissal Issued	James C. Herndon
	NOPD	STAPLES	Notice Of Proposed Dismissal Issued	James C. Herndon
	MOTN	ESKELSON	Motn To Withdraw As Ocounsel Of Record	James C. Herndon
	AFFD	ESKELSON	Affd Of Francis P Waler In Supp Of Motn To Wi	James C. Herndon
1/28/1997	ORDR	ESKELSON	Order Allowing W/d As Atty Of Record F P Walk	James C. Herndon
1/29/1997	MISC	STAPLES	PI Called Re Case & Doesn't Want Dismissed	James C. Herndon
	MISC	STAPLES	Is Getting Another Atty & One Of The	James C. Herndon

Date: 8/20/2008

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Case: CV-1993-0000822 Current Judge: Darren B. Simpson

James R Meyers, etal. vs. Jack Kathleen Lott, etal.

Date	Code	User		Judge
1/29/1997	MISC	STAPLES	Other Parties (james) Has Passed Away	James C. Herndon
1/30/1997	NOTH	ESKELSON	Notice Of Hearing - 02-26-97	James C. Herndon
	MOTN	ESKELSON	Motn For Summary Judgment	James C. Herndon
	MEMO	ESKELSON	Memo In Uspp Of Motn For Summ Judgment	James C. Herndon
	AFFD	ESKELSON	Affd Of Jack Lott In Supp Of Motn For Summ	James C. Herndon
	MISC	ESKELSON	Judgment	James C. Herndon
	MISC	ESKELSON	Statement Of Undisputed Material Facts	James C. Herndon
	AFFD	ESKELSON	Affd Of Counsel	James C. Herndon
	ORDR	STAPLES	Order For Telephonice Status Conf 2-4-97	James C. Herndon
2/3/1997	NOTC	ESKELSON	Notc Of Sub Of Counsel Bithell F/pl	James C. Herndon
2/25/1997	NOTH	STAPLES	Amended Notice Of Hearing	James C. Herndon
3/11/1997	NORT	ESKELSON	Note Of Issue/request For Trial	James C. Herndon
3/14/1997	ORDR	STAPLES	Order For Status Conf	James C. Herndon
	HRSC	STAPLES	Hearing Scheduled - Status Conf (03/26/1997) James C. Herndon	James C. Herndon
3/20/1997	NOTH	STAPLES	Notice Of Telephonic Hearing	James C. Herndon
3/21/1997	MOTN	STAPLES	Motn For Continuance And Other Relief	James C. Herndon
	AFFD	STAPLES	Affd Of Kim J. Dockstader	James C. Herndon
	NOTC	STAPLES	Notc Of Auio-visual Depo Of John Scoresby	James C. Herndon
	NOTC	STAPLES	Notc Of Audio-visual Depo Of George V. Hansen	James C. Herndon
	MOTN	STAPLES	Motn F/ Ordr Shortening Time F/ Hearing (fax)	James C. Herndon
3/24/1997	MOTN	STAPLES	Motn F/ Ordr Shortening Time F/ Hearing	James C. Herndon
3/26/1997	HRHD	WILLIAMS	Hearing Held	James C. Herndon
	MINE	WILLIAMS	Minute Entry And Order	James C. Herndon
	ORDR	WILLIAMS	Order Shortening Time For Hearing	James C. Herndon
	HRHD	WILLIAMS	Hearing Held - Status Conf	James C. Herndon
	HRSC	WILLIAMS	Hearing Scheduled - Motn F/sum Jdmt (05/28/1997) James C. Herndon	James C. Herndon
	MINE	ESKELSON	Minute Entry & Order	James C. Herndon
3/31/1997	JTSC	WILLIAMS	Jury Trial Scheduled - (06/24/1997) James C. Herndon	James C. Herndon
4/3/1997	SUBR	ESKELSON	Subpoena Returned - John Scoresby	James C. Herndon
	SUBR	ESKELSON	Subpoena Returned - George Hansen	James C. Herndon
5/8/1997	ORDR	WILLIAMS	Order Vacating And Resetting Jury Trial	James C. Herndon
	HRVC	WILLIAMS	Hearing Vacated - Jury Trial	James C. Herndon
	JTSC	WILLIAMS	Jury Trial Scheduled - (06/25/1997) James C. Herndon	James C. Herndon
5/14/1997	MISC	ESKELSON	Statement Of Undisputed Material Facts	James C. Herndon
	AFFD	ESKELSON	Affd Of Devon Bratsman	James C. Herndon

Date	Code	User		Judge
5/14/1997	AFFD	ESKELSON	Affd Of Allen E Suderman	James C. Herndon
	AFFD	ESKELSON	Affd Of Kim J Dockstader	James C. Herndon
	MEMO	ESKELSON	Memo In Opp To Def Motn For Summ Jdmt	James C. Herndon
	AFFD	ESKELSON	Affd Of Counsel	James C. Herndon
5/21/1997	NOTH	ESKELSON	Notice Of Hearing 05-28-97 3:00 Bingham Cty	James C. Herndon
5/22/1997	NOTH	STAPLES	Notice Of Hearing	James C. Herndon
	AFFD	STAPLES	2nd Affd Of Counsel In Support Of Motn For	James C. Herndon
	MISC	STAPLES	Summary Jdmt	James C. Herndon
	MISC	STAPLES	Reply Brief - Defs' Motn For Summary Jdmt	James C. Herndon
	MOTN	STAPLES	Motn To Strike Portions Of Affs Of Devon	James C. Herndon
	MISC	STAPLES	Bratsman & Allen B. Suderman	James C. Herndon
	MISC	STAPLES	Objection To Pl's Statement Of Undisputed	James C. Herndon
	MISC	STAPLES	Material Facts	James C. Herndon
5/27/1997	RESP	STAPLES	Resp To Defs' Motn To Compel Answers To Inter	James C. Herndon
	HRHD	DUGAN	Hearing Held - Motn F/sum Jdmt	James C. Herndon
5/30/1997	AFFD	WILLIAMS	Affd Of Ann T. Meyers In Support Of Memo	James C. Herndon
	MISC	WILLIAMS	In Opposition To Motn F/summary Judgment	James C. Herndon
6/3/1997	MOTN	ESKELSON	Motn For Sub Of Party	James C. Herndon
	NDDT	ESKELSON	Notice Of Deposition Duces Tecum	James C. Herndon
	SUBR	ESKELSON	Subpoena Returned	James C. Herndon
	RTOS	ESKELSON	Return Of Service 06-02-97	James C. Herndon
	SUBR	ESKELSON	Subpoena Returned	James C. Herndon
	RTOS	ESKELSON	Return Of Service 06-02-97	James C. Herndon
	MOTN	ESKELSON	Motn For Sub Of Party (fax) (copy)	James C. Herndon
	AFFD	ESKELSON	Affd Of Ann Ty Meyers	James C. Herndon
6/4/1997	ORDR	ESKELSON	Ordr Sub Party Ann Ty Meyers Pr For Estate Of	James C. Herndon
	MISC	ESKELSON	James R Meyers	James C. Herndon
	ORDR	ESKELSON	Order For Telephonic Hrg 06-11-97	James C. Herndon
6/9/1997	MISC	ESKELSON	Objection To Def J Lott Motn To Strike	James C. Herndon
	AFFD	ESKELSON	Affd Of Ann T Meyers	James C. Herndon
6/11/1997	NTOS	STAPLES	Notice Of Service Of Discovery	James C. Herndon
	AFFD	STAPLES	Affd Of Service Of Subpoena	James C. Herndon
6/12/1997	MISC	ESKELSON	List Of Exhibits And Witnesses	James C. Herndon
6/16/1997	NTOS	WILLIAMS	Notice Of Service Of Discovery	James C. Herndon
	MISC	WILLIAMS	Plaintiffs' Disclosure Of Trial Witnesses	James C. Herndon
6/23/1997	HRVC	WILLIAMS	Hearing Vacated - Jury Trial	James C. Herndon
6/24/1997	MOTN	ESKELSON	Motn For Award Of Costs	James C. Herndon

Date	Code	User		Judge
6/24/1997	MEMO	ESKELSON	Memo Re: Costs Affd Of Attorney	James C. Herndon
7/8/1997	MISC	WILLIAMS	Objection To Motion For Award Of Costs	James C. Herndon
7/10/1997	MISC	WILLIAMS	Objection To Motn F/award Of Costs	James C. Herndon
	HRSC	WILLIAMS	Hearing Scheduled - Motion (08/11/1997) James C. Herndon	James C. Herndon
	ORDR	WILLIAMS	Order Vacating & Resetting Hearing-8/11 @1:15	James C. Herndon
7/22/1997	ORDR	STAPLES	Order Vacating & Resetting Hearing	James C. Herndon
	HRVC	STAPLES	Hearing Vacated - Motion	James C. Herndon
	HRSC		Hearing Scheduled - Telephonic Hrg (08/18/1997) James C. Herndon	
8/18/1997	HRHD	WILLIAMS	Hearing Held - Telephonic Hrg	James C. Herndon
	MINE	WILLIAMS	Minute Entry And Order	James C. Herndon
	HRSC		Hearing Scheduled - Motn To Dismiss (09/09/1997) James C. Herndon	
9/9/1997	HRHD	DUGAN	Hearing Held - Motn To Dismiss	James C. Herndon
9/11/1997	PART	WILLIAMS	Judgment F/costs \$3,675.15 (in Favor Of Jack	James C. Herndon
	MISC	WILLIAMS	& Kathleen Lott Against James & Ann Meyers)	James C. Herndon
	PART	WILLIAMS	Order Of Dismissal (dismiss John & Marilyn	James C. Herndon
	MISC	WILLIAMS	Scoresby)	James C. Herndon
10/6/1997	NOTH	WILLIAMS	Notc Of Hearing Via Telephone Conf-10/27 @ 11	James C. Herndon
	HRSC	WILLIAMS	Hearing Scheduled - Motn F/certif (10/27/1997) James C. Herndon	James C. Herndon
	MOTN	WILLIAMS	Motion For Certificate Of Final Judgment	James C. Herndon
10/24/1997	MOTN	WILLIAMS	Motion F/reconsideration (request F/oral Arg)	James C. Herndon
	MOTN	WILLIAMS	Pltfs' Memo In Support Of Motn F/reconsiderat	James C. Herndon
	AFFD	WILLIAMS	Second Affidavit Of Allen E. Suderman	James C. Herndon
	AFFD	WILLIAMS	Second Affidavit Of Ann Meyers In Support Of	James C. Herndon
	MISC	WILLIAMS	Motion For Reconsideration	James C. Herndon
	AFFD	WILLIAMS	Second Affidavit Of Counsel	James C. Herndon
10/27/1997	HRHD	DUGAN	Hearing Held - Motn F/certif	James C. Herndon
10/29/1997	MISC	STAPLES	Certificate	James C. Herndon
10/31/1997	MISC	ESKELSON	Objection To Affd Of Ann Meyes & Allen	James C. Herndon
	MISC	ESKELSON	Suderman & Motn To Strike	James C. Herndon
	MEMO	ESKELSON	Memo In Supp Of Motn To Strike	James C. Herndon
11/3/1997	MISC	STAPLES	Brief In Oppo To Motn For Reconsideration	James C. Herndon
11/14/1997	MISC	WILLIAMS	Objection To Def Jack Lott's Obj To Affds Of	James C. Herndon
	MISC	WILLIAMS	Ann Meyers & Allen Suderman & Motn To Strik	James C. Herndon
11/18/1997	MEMO	ESKELSON	Reply Memo In Supp Of Motn For Reconsiderat	James C. Herndon
12/10/1997	NOTH	DUGAN	Notice Of Hearing	James C. Herndon

Date	Code	User		Judge
1/9/1998	MEMO	DUGAN	Supp Memo In Opposition To Motn F/reconsider	James C. Herndon
1/16/1998	MINE	WILLIAMS	Minute Entry	James C. Herndon
3/31/1998	DEOP	DUGAN	Decision Or Opinion	James C. Herndon
	FJDE	DUGAN	Final Judgement, Order Or Decree Entered	James C. Herndon
5/11/1998	APSC	DUGAN	Appealed To The Supreme Court	James C. Herndon
		DUGAN	Civil Appeals To Supreme Court	James C. Herndon
	NOTC	DUGAN	Notice Of Appeal	James C. Herndon
	MOTN	DUGAN	Motion In Forma Pauperis	James C. Herndon
	AFFD	DUGAN	Affidavit In Support Of Motn In Forma Pauperi	James C. Herndon
5/12/1998	MISC	HAGERTY	Clerk's Certificate Of Appeal	James C. Herndon
	MISC	DUGAN	Object To Plaints Motn In Forma Pauperis	James C. Herndon
5/19/1998	MISC	ESKELSON	Clerk's Certificate Of Appeal	James C. Herndon
5/21/1998	MISC	WILLIAMS	Clerk's Record/reporter's Transcript-stayed	James C. Herndon
5/27/1998	ORDR	ESKELSON	Order Remotn In Forma Pauperis	James C. Herndon
6/5/1998	RESP	WILLIAMS	Response To Order Re: Motn In Forma Pauperis	James C. Herndon
	AFFD	WILLIAMS	Second Affd Of Ann Meyers In Support Of Motn	James C. Herndon
	AFFD	WILLIAMS	Affidavit Of Stephanie Meyers	James C. Herndon
	AFFD	WILLIAMS	Affidavit Of Ralph Rasmussen	James C. Herndon
6/15/1998	ORDR	WILLIAMS	Order Amending Title (supreme)	James C. Herndon
6/19/1998	MISC	ESKELSON	Amended Notice Of Appeal	James C. Herndon
7/15/1998	ORDR	ESKELSON	Order li Re In Forma Pauperis	James C. Herndon
10/13/1998	MISC	HAGERTY	Amended Clerk's Certificate Of Appeal	James C. Herndon
10/29/1998	MOTN	DUGAN	Brief F/ordr To Prepare Record & Transcript	James C. Herndon
11/4/1998	MISC	DUGAN	Ordr Supreme Crt	James C. Herndon
11/10/1998	MISC	DUGAN	Amended Clerk's Cert Filed	James C. Herndon
12/1/1998	MISC	DUGAN	Clerk's Record & Tran Due Date Reset	James C. Herndon
12/23/1998	MISC	DUGAN	Objection To Record**copy	James C. Herndon
12/24/1998	MISC	DUGAN	Objection To Record**orig	James C. Herndon
1/5/1999	MISC	DUGAN	Appeal Record Filed/further Briefing Stayed	James C. Herndon
1/7/1999	MISC	DUGAN	Clerk's Record & Reporters's Tran **stayed**	James C. Herndon
1/8/1999	ORDR	ESKELSON	Order For Telephonic Hearing 02-01-99	James C. Herndon
2/3/1999	MEMO	DUGAN	Supp Memo In Support Of Object To The Record	James C. Herndon
2/4/1999	MEMO	DUGAN	Memo In Opposition To P's Object To Record	James C. Herndon
2/10/1999	MINE	DUGAN	Minute Entry	James C. Herndon
3/1/1999	ORDR	WILLIAMS	Order Denying Objection To Appellate Record	James C. Herndon
3/3/1999	MISC	DUGAN	Briefing Resummed Appellant Brief Due	James C. Herndon
3/18/1999	NOAP	ESKELSON	Notc Of Appearance Eames For Ann Meyers	James C. Herndon

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James R Meyers, etal. vs. Jack _Kathleen Lott, etal.

Date	Code	User		Judge
3/18/1999	MOTN	ESKELSON	Motn To Associate With Out Of State Counsel	James C. Herndon
3/30/1999	ORDR	DUGAN	Ordr Denying Motn To Associate W/out Of State	James C. Herndon
	MISC	DUGAN	Counsel W/out Prejudice**supreme Crt	James C. Herndon
4/27/1999	MISC	DUGAN	Ordr Denying Motn To Augement Rec**supr Crt	James C. Herndon
7/16/1999	MISC	BEEDIE	Ex Parte Application For Default Judgement	James C. Herndon
	MISC	BEEDIE	Against George Hansen	James C. Herndon
	MEMO	BEEDIE	Memorandum Of Points And Authorities In	James C. Herndon
	MISC	BEEDIE	Support Of Default Judgment	James C. Herndon
	AFFD	BEEDIE	Affidavit Of Ann T. Meyers In Support Of	James C. Herndon
	MISC	BEEDIE	Default Judgement	James C. Herndon
8/26/1999	MISC	BEEDIE	Notice Of Appeal	James C. Herndon
	APSC	ESKELSON	Appealed To The Supreme Court	James C. Herndon
1/7/2000	MISC	BEEDIE	Ackn Of Receipt Of Opinion -sc	James C. Herndon
2/9/2000	ORDR	BORRESEN	Order For Hearing--3/6/00 Filed In Chambers	James C. Herndon
2/10/2000	ORDR	BORRESEN	Please Delete Me	James C. Herndon
3/6/2000	NOTC	BAIRD	Notice Of Trial & Initial Pre-trial	James C. Herndon
	MISC	BAIRD	Scheduling Order	James C. Herndon
	MINE	BAIRD	Minute Entry	James C. Herndon
3/22/2000	SUBC	ESKELSON	Substitution Of Counsel	James C. Herndon
	NOAP	ESKELSON	Notice Of Appearance R Keith Roark For PI	James C. Herndon
4/19/2000	MOTN	BORRESEN	PI Motn To Vacate Judgment For Costs	James C. Herndon
6/2/2000	ORDR	ESKELSON	Order For Hearing 06-30-00 (status Conf)	James C. Herndon
7/5/2000	NDDT	BAIRD	Notice Of Deposition Duces Tecum	James C. Herndon
7/6/2000	MINE	BAIRD	Minute Entry	James C. Herndon
7/12/2000	NDDT	BAIRD	Amended Notice Of Deposition	James C. Herndon
8/7/2000	MISC	BEEDIE	Def Jack Lott's Supplemental Response To	James C. Herndon
	MISC	BEEDIE	Request For Production	James C. Herndon
8/28/2000	MISC	ESKELSON	FI Proposed Witness List	James C. Herndon
	MISC	BAIRD	PI's Proposed Exhibits	James C. Herndon
	MISC	ESKELSON	PI Second Supp Disclosure Of Exhibits	James C. Herndon
	MISC	ESKELSON	PI Supplemental Disclosure Of Exhibits	James C. Herndon
	MISC	ESKELSON	PI Supplemental Proposed Witness List	James C. Herndon
	MISC	BORRESEN	PI Second Supplemental Proposed Witness List	James C. Herndon
	MISC	ESKELSON	PI Second Supplemental Porposed Witness List	James C. Herndon
	MINE	ESKELSON	Minute Entry	James C. Herndon
8/29/2000	MISC	BAIRD	Def's Requested Jury Instructions	James C. Herndon
	MOTN	BAIRD	Motion In Limine	James C. Herndon

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Case: CV-1993-0000822 Current Judge: Darren B. Simpson

James R Meyers, etal. vs. Jack _Kathleen Lott, etal.

Date	Code	User		Judge
8/29/2000	MEMO	BAIRD	Memo In Support Of Motn In Limine	James C. Herndon
	AFFD	BAIRD	Affd Of Counsel-support Of Motn In Limine	James C. Herndon
	BRIF	BAIRD	Brief Filed	James C. Herndon
8/31/2000	MISC	BAIRD	Jury Trial Schedule	James C. Herndon
	NOTH	ESKELSON	Notice Of Hearing (telephonic)	James C. Herndon
	MISC	ESKELSON	Def Supplemental Motn In Limine	James C. Herndon
	BRIF	ESKELSON	Supplemental Trial Brief	James C. Herndon
9/1/2000	MISC	BAIRD	Pl's Objection To Jury Trial Schedule	James C. Herndon
9/7/2000	BRIF	BAIRD	Pl's Trial Brief Filed	James C. Herndon
	MISC	BAIRD	Pl's Requested Jury Instructions	James C. Herndon
	MISC	BAIRD	Pl's Objection To Jury Trial Schedule	James C. Herndon
	MISC	BAIRD	(fax Copy From Bingham County)	James C. Herndon
9/8/2000	MISC	ESKELSON	Pl Third Supp Disclosure Of Exhibits	James C. Herndon
	MISC	ESKELSON	Def Lott's Brief On Evidentiary Issued	James C. Herndon
9/11/2000	JTSC	HAGERTY	Jury Trial Scheduled - (09/11/2000) James C. Herndon	James C. Herndon
	JTST	HAGERTY	Jury Trial Started	James C. Herndon
	MOTN	HAGERTY	Pl's Motion In Limine	James C. Herndon
9/15/2000	JDMT	BAIRD	Judgment On Special Verdict	James C. Herndon
	FJDE	BAIRD	Final Judgement, Order Entered	James C. Herndon
	DEOP	BORRESEN	Decision Or Opinion	James C. Herndon
9/18/2000	MISC	BAIRD	Special Verdict Form	James C. Herndon
	MINE	BAIRD	Minute Entry	James C. Herndon
9/25/2000	MOTN	BAIRD	Motion For Award Of Costs	James C. Herndon
	MEMO	BAIRD	Memo Re: Costs;affd Of Atty	James C. Herndon
	MINE	BAIRD	Minute Entry & Order	James C. Herndon
9/26/2000	TRAN	BAIRD	Reporter's Estimate Of Transcript On Appeal	James C. Herndon
11/17/2000	STIP	SMART	Stipulation In Lieu Of Judgment For Costs	James C. Herndon
12/6/2000	DPHR	COWAN	Disposition With Hearing	James C. Herndon
	FJDE	COWAN	Final Judgement On Jury Verdict	James C. Herndon
9/25/2001	ORDGRANT	DOOLITTL	Order for Judgment-money: Order Granted Default Judgment Against George Hansen \$ 732,927.00	James C. Herndon
	APDJ	DOOLITTL	Application For Default Judgment	James C. Herndon
	AFFD	DOOLITTL	Affidavit of Allen Suderman	James C. Herndon
1/24/2005		DOOLITTL	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Meyers, Ann T Receipt number: 0003219 Dated: 01/24/2005 Amount: \$10.00 (Check)	James C. Herndon

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James R Meyers, etal. vs. Jack _Kathleen Lott, etal.

Date	Code	User	Judge
10/14/2005	2011	BASINGER	FILE CAN BE SENT TO BOISE OR DESTROYED
2/21/2006		HAGERTY	Notice Re: Return of Exhibits, Depositions, and/or Transcripts to Party or Attorney
5/16/2006	MOTN	WILLIAMS	Motion for Renewed Judgment - \$732,927.00
	ORRJ	HAGERTY	Order Renewing Judgment
5/17/2006		EDDY	Filing: J3B - Special Motions Pet. To Vacate/renew/ Reopen - W/ Prior App Paid by: Beard St Clair Gaffney Receipt number: 0020917 Dated: 5/17/2006 Amount: \$9.00 (Check)
8/22/2006	APPL	PHILLIPS	Application for Order for Examination of Debtor
8/24/2006	ORDGRANT	DOOLITTL	Order: Order Granted for Examination of Debtor 9-8-06 @ 9:00 a.m. (George Hansen ONLY)
9/8/2006	ORDGRANT	DOOLITTL	Order: Order Granted for Examination of Debtor 9-20-06 @9:00 a.m. (Original Order was lost in Mail - Leah from Judge Herndons office faxed there file copy)
9/11/2006	ORDR	DOOLITTL	Order for Examination of Debtor 9-20-06 (Original)
9/14/2006	RTOS	DOOLITTL	Return Of Service 9-12-06 Connie Sue Hansen for George Hansen)
9/20/2006		DOOLITTL	Request for Excuse from Attending Debtor's Exam
10/24/2006	AFFD	PHILLIPS	Affidavit of Michael D. Gaffney ***FAX***
	AFFD	PHILLIPS	Affidavit of Ann T. Meyers ***FAX***
	MOTN	PHILLIPS	Motion for Order to Show Cause ****FAX***
10/31/2006		PHILLIPS	Request for Excuse from Attending Debtor's Exam ***FAX***
	AFFD	PHILLIPS	Affidavit of Ann T. Meyers ***FAX***
	AFFD	PHILLIPS	Affidavit of Michael D. Gaffney ***FAX***
	MOTN	PHILLIPS	Motion for Order to Show Cause ***FAX***
	MOTN	PHILLIPS	Statement OPPOSING Motion for Contempt Order ***FAX***
11/6/2006	ORDR	DOOLITTL	Order to Show Cause 11-22-06 @ 11:00 a.m.
11/8/2006	ORDR	DOOLITTL	Order to Show Cause (Copy) 11-22-06 @ 11:00 a.m.
11/16/2006	RTOS	DOOLITTL	Return Of Service 11-9-06 (George Hansen by serving Connie Hansen)
11/17/2006	AFFD	WILLIAMS	Affidavit of Kent A. Higgins
11/22/2006	MINE	QUINTANA	Minute Entry on OTSC for FTA Hearing
11/27/2006	WARB	QUINTANA	Warrant Issued - Bench
	STATUS	QUINTANA	Case Status Changed: Inactive
3/1/2007	JUDGE	MOSS	Judge Change - Per Administrative Order 2006-5 signed by Judge Herndon

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James R Meyers, etal. vs. Jack _Kathleen Lott, etal.

Date	Code	User	Judge
4/5/2007		DOOLITTL	Warrant Issued in November cannot be located Judge Simpson Issued a new one
	ORDR	DOOLITTL	Order for Issuance of Warrant of Attachment
		DOOLITTL	Body Attachment Warrant Issued (Signed by Judge Simpson 4-3-07)
	APPL	DOOLITTL	Application for Order for Examination of Debtor
4/9/2007	NOAP	PHILLIPS	Defendant: Hansen, George F. Notice Of Appearance Pro-Se and RESPONSE by George V. Hansen ***FAX****
	AFFD	PHILLIPS	Affidavit of George V. Hansen ***FAX**
4/16/2007	ORDR	DOOLITTL	Order for Examination of Debtor 4-25-07 @ 9:00 a.m. (Signed by Judge 4-13-07)
4/30/2007	AFFD	DOOLITTL	Affidavit of John L. Runft in Support of Motion for Status Conference
	MOTN	DOOLITTL	Motion for Status Conference
		DOOLITTL	Miscellaneous Payment: For Making Copy Of Any File Or Record By The Clerk, Per Page Paid by: Runft & Steele Receipt number: 0018478 Dated: 4/30/2007 Amount: \$12.00 (Check)
	NOAP	DOOLITTL	Defendant: Hansen, George F. Notice Of Appearance John L. Runft
5/3/2007	STAT	HAGERTY	Order Setting Status Conference
5/18/2007	HRSC	HAGERTY	Hearing Scheduled (Status Conference 05/25/2007 08:30 AM)
5/25/2007	HRHD	HAGERTY	Hearing result for Status Conference held on 05/25/2007 08:30 AM: Hearing Held
	MINE	HAGERTY	Minute Entry
8/15/2007	NOTC	WILLIAMS	Notice of Deposition of William Hansen
	NOTC	WILLIAMS	Notice of Deposition of Lanae Rowe aka Lanae Byington
	NOTC	WILLIAMS	Notice of Deposition of Connie Sue Hansen
	NOTC	WILLIAMS	Notice of Deposition of Connie Sue Hansen
	NOTC	WILLIAMS	Notice of Deposition Duces Tecum of George V. Hansen
10/1/2007	APPL	DOOLITTL	Application for Writ of Execution and Affidavit of Counsel
	AFIN	DOOLITTL	Affidavit Of Interest
	WRIT	DOOLITTL	Writ Issued \$1,116,877.17 Bannock
		DOOLITTL	Miscellaneous Payment: Writs Of Execution Paid by: Beard St. Clair Receipt number: 0042192 Dated: 10/1/2007 Amount: \$2.00 (Check)
11/15/2007	MOTN	MCGARY	Motion to Vacate Contempt Order and to Quash Warrant of Attachment
11/20/2007	HRSC	KER	Hearing Scheduled (Motion 11/30/2007 10:00 AM) Motion for objection for exemption

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James R Meyers, etal. vs. Jack Kathleen Lott, etal.

Date	Code	User	Judge
11/20/2007	MOTN	TAWILLIAMS	Plaintiff's Motion Contesting Claim of Exemption and Notice of Hearing (FAXED)
11/30/2007		DOOLITTL	Filing: J5 - Special Motions Petition For Intervention Paid by: Edward J. Berrett Receipt number: 0051181 Dated: 11/30/2007 Amount: \$61.00 (Check) For: Hansen, George F. (defendant)
	NOAP	DOOLITTL	Other party: Hansen, Connie S. Notice Of Appearance Edward J Berrett
	MOTN	DOOLITTL	Motion to Permit Interpleader
	NOTH	DOOLITTL	Notice Of Hearing 11-30-07 @ 10:00 a.m.
	AFFD	DOOLITTL	Affidavit of William D. Hansen
	HRHD	QUINTANA	Hearing result for Motion held on 11/30/2007 10:00 AM: Hearing Held Motion for objection for exemption
	MINE	QUINTANA	Minute Entry
	HRSC	QUINTANA	Hearing Scheduled (Motion 12/04/2007 11:00 AM)
12/3/2007	AFFD	PHILLIPS	2nd Affidavit of Connie S. Hansen ***FAX***
12/4/2007	MEMO	WILLIAMS	Memorandum Opposing Motion to Permit Interpleader and Supporting Motion to Join Connie S. Hansen as a Defendant **fax**
	MOTN	WILLIAMS	Motion to Join Connie S. Hansen as a Defendant **fax**
	HRHD	QUINTANA	Hearing result for Motion held on 12/04/2007 11:00 AM: Hearing Held
	MINE	QUINTANA	Minute Entry
	HRSC	QUINTANA	Hearing Scheduled (Hearing 01/04/2008 09:00 AM) Evidentiary Claim of Exemption
12/6/2007	MOTN	WILLIAMS	Motion to Vacate Contempt Order and to Quash Warrant of Attachment
	STIP	WILLIAMS	Stipulation to Vacate Contempt Order and to Quash Warrant of Attachment
		WILLIAMS	Claim of Exemption
12/17/2007		PHILLIPS	Plaintiff's OBJECTION to Connie S. Hansen's Claim of Exemption ***FAX***
		DOOLITTL	Claim of Exemption
	AFFD	DOOLITTL	Affidavit of William D. Hansen
12/21/2007	MEMO	DOOLITTL	Memorandum in Support of Plaintiff's Objection to Connie S. Hansen's Claim of Exemption
	AFFD	DOOLITTL	Affidavit of Jeffrey D. Brunson In Support of Plaintiff's Objection to Connie S. Hansen's Claim of Exemption
12/28/2007	STIP	DOOLITTL	Stipulation for Extension of Time (Fax)

Date	Code	User		Judge
1/4/2008	HRHD	LMESSICK	Hearing result for Hearing held on 01/04/2008 09:00 AM: Hearing Held Evidentiary Claim of Exemption	Darren B. Simpson
	MINE	LMESSICK	Minute Entry on Plaintiff's objection to claim of exemption and plaintiff's motion to join connie s. hansen	Darren B. Simpson
	MEMO	KER	Memorandum in Response to Objection to Claim of Exemption	Darren B. Simpson
1/22/2008	NDDT	DOOLITTL	Notice Of Deposition Duces Tecum of Connie S. Hansen (fax)	Darren B. Simpson
	AFFD	WILLIAMS	Affidavit of Rhonda Quintana	Darren B. Simpson
2/5/2008	ORDR	KER	Order Granting Plaintiff's Objection to Third Party Claim of Exemption	Darren B. Simpson
	ORDR	KER	Order Dismissing Motion to Permit Interpleader and Motion to Join Connie S. Hansen as a Defendant	Darren B. Simpson
2/11/2008	MOTN	TAWILLIAMS	Motion For Temporary Restraining Order	Darren B. Simpson
		TAWILLIAMS	Brief In support of Motion For Preliminary Injunction	Darren B. Simpson
	AFFD	TAWILLIAMS	Affidavit of Karl J.F. Runft In Support of Moiton For Preliminary Injunction	Darren B. Simpson
	MOTN	TAWILLIAMS	Motion For Preliminary Injunction	Darren B. Simpson
	MOTN	TAWILLIAMS	Motion To Shorten Time	Darren B. Simpson
	NOTH	TAWILLIAMS	Notice Of Hearing February 28, 2008 @ 11:00 Defendant's Motion To Shorten Time	Darren B. Simpson
2/13/2008	ORDR	KER	Order Shortening Time	Darren B. Simpson
2/15/2008	HRSC	KER	Hearing Scheduled (Motion 02/28/2008 11:00 AM) Motions	Darren B. Simpson
	STATUS	KER	Case Status Changed: Reopened	Darren B. Simpson
2/19/2008	NOTC	DOOLITTL	Notice of Telephonic Hearing 2-28-08 @ 11:00 a.m.	Darren B. Simpson
2/20/2008	AFFD	DOOLITTL	Affidavit of Counsel in Support of Motion for Award of Costs (fax)	Darren B. Simpson
	MOTN	DOOLITTL	Motion for Award of Costs (fax)	Darren B. Simpson
2/21/2008	NOTC	KER	Notice Vacating Deposition	Darren B. Simpson
	MEMO	KER	Memorandum in Support of Plaintiff's Objection to Preliminary Injunction	Darren B. Simpson
	AFFD	KER	Affidavit of Michael D. Gaffney in Support of Plaintiff's Objection to Preliminary Injunction	Darren B. Simpson
2/25/2008		TAWILLIAMS	Objection to Motion For Costs	Darren B. Simpson
2/27/2008	MOTN	TAWILLIAMS	Motion For Relief From Default Judgment	Darren B. Simpson
		TAWILLIAMS	Brief in Support of Motion For Relief From Default Judgment	Darren B. Simpson
	AFFD	TAWILLIAMS	Affidavit of George V. Hansen	Darren B. Simpson

Date: 8/20/2008

Seventh Judicial District Court - Bonneville Court

User: SHULTS

Time: 03:35 PM

ROA Report

Page 16 of 17

Case: CV-1993-0000822 Current Judge: Darren B. Simpson

James R Meyers, etal. vs. Jack _Kathleen Lott, etal.

Date	Code	User		Judge
2/27/2008	AFFD	TAWILLIAMS	Affidavit of Karl J.F. Runft In Support of Motion For Relief From Default Judgment	Darren B. Simpson
2/28/2008	HRHD	KER	Hearing result for Motion held on 02/28/2008 11:00 AM: Hearing Held Motions	Darren B. Simpson
3/3/2008	HRSC	KER	Hearing Scheduled (Motion 05/09/2008 09:30 AM)	Darren B. Simpson
3/13/2008		TAWILLIAMS	Supplemental Brief in Support of Motin For Relief From Default Judgment	Darren B. Simpson
3/20/2008	MEMO	KER	Memorandum Opinion and order Denying Defendant George Hansen's Motion for Preliminary Injuntion	Darren B. Simpson
3/21/2008		WILLIAMS	***Writ returned - need Affidavit of interest prior to issuing***	Darren B. Simpson
3/28/2008	AFIN	TAWILLIAMS	Affidavit Of Interest	Darren B. Simpson
	WRIT	TAWILLIAMS	Writ Issued \$1,150.084.78 Bannock County	Darren B. Simpson
		TAWILLIAMS	Miscellaneous Payment: Writs Of Execution Paid by: Beard St. Clair gaffney Receipt number: 0013141 Dated: 4/1/2008 Amount: \$2.00 (Check)	Darren B. Simpson
3/31/2008	RESP	ROBBINS	P's Response to Defendant's Supplemental Brief in Support of Motion for Relief from Default Judgment	Darren B. Simpson
	APPL	TAWILLIAMS	Application For Entry of Default and Default Judgment	Darren B. Simpson
4/14/2008	BRIF	DOOLITTL	Reply Brief Filed in Support of Motion for Relief from Default Judgment	Darren B. Simpson
4/23/2008	NOTC	ANDERSEN	Notice of Deposition Duces Tecum of Edward Berrett	Darren B. Simpson
	NOTC	ANDERSEN	Notice of Deposition Duces Tecum of Connie Hansen	Darren B. Simpson
4/29/2008	WRTU	DOOLITTL	Writ returned, Unsatisfied (Leaving Balance of \$1,116,877.17)	Darren B. Simpson
5/9/2008	MINE	KER	Minute Entry	Darren B. Simpson
	HRHD	KER	Hearing result for Motion held on 05/09/2008 09:30 AM: Hearing Held	Darren B. Simpson
6/10/2008	MEMO	KER	Memorandum Opinion and Order Denying Defendant George Hansen's Motion for Relief from Default Judgment	Darren B. Simpson
6/24/2008	NDDT	DOOLITTL	Notice Of Deposition Duces Tecum of Citizens Community Bank (fax)	Darren B. Simpson
	NDDT	DOOLITTL	Notice Of Deposition Duces Tecum of Lee Caldwell (fax)	Darren B. Simpson
7/2/2008	MOCG	WILLIAMS	Motion For Continued Garnishment	Darren B. Simpson
	AFIN	WILLIAMS	Affidavit Of Interest	Darren B. Simpson
	OCGI	WILLIAMS	Order For Continuing Garnishment Issued	Darren B. Simpson
	WRIT	WILLIAMS	Writ Issued \$1,166,605.74 Bonneville	Darren B. Simpson

Date: 8/20/2008

Seventh Judicial District Court - Bonneville Court

User: SHULTS

Time: 03:35 PM

ROA Report

Page 17 of 17

Case: CV-1993-0000822 Current Judge: Darren B. Simpson

James R Meyers, etal. vs. Jack ,Kathleen Lott, etal.

Date	Code	User	Judge
7/17/2008	WRTU	WILLIAMS	Writ returned, Unsatisfied
7/21/2008		DOOLITTL	Filing: T - Civil Appeals To The Supreme Court (\$86.00 for the Supreme Court to be receipted via Misc. Payments. The \$15.00 County District Court fee to be inserted here.) Paid by: Runft, John L. (attorney for Hansen, George F.) Receipt number: 0030624 Dated: 7/21/2008 Amount: \$15.00 (Check) For: George Hansen And Associates (defendant)
	APDC	DOOLITTL	Appeal Filed In District Court
	NOTC	DOOLITTL	Notice of Appeal
7/22/2008	BNDC	SHULTS	Bond Posted - Cash (Receipt 30917 Dated 7/22/2008 for 100.00)
		SHULTS	Clerk's Certificate of Appeal (sent to S.C. 7-22-08) with check # 4164 86.00 for appellate fee.
7/23/2008	ORDR	SHULTS	Return of Service for Garnishment returned unserved.
8/4/2008		SHULTS	S.C. acknowledgment of receipt of Clerk's Certificate of Appeal
		SHULTS	S.C. DOCKET # 35534 DUE DATE 10-2-08
8/12/2008	WRTU	DOOLITTL	Amended Writ returned, Unsatisfied

ROGER D. COX, ESQ.
COX, OHMAN & BRANDSTETTER, CHARTERED
510 "D" Street
P.O. Box 51600
Idaho Falls, Idaho 83405
(208) 522-8606

ATTORNEYS FOR: Plaintiffs

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

JAMES R. MEYERS and ANN T.)	
MEYERS, husband and wife,	)	Case No. CV 93-822
)	
Plaintiffs,	)	AMENDED VERIFIED
	)	COMPLAINT
vs.)	
)	
JACK LOTT and KATHLEEN S.)	
LOTT, husband and wife; JOHN)	
SCORESBY and MARILYN)	
SCORESBY, husband and wife;)	
GEORGE HANSEN, individually,)	
and d/b/a IDEAL CONSULTANTS)	
and/or GEORGE HANSEN and)	
ASSOCIATES; and JOHN DOES)	
and SALLY DOES I thru 10,)	
)	
Defendants.)	

COMES NOW the Plaintiffs and for cause of action against the Defendants, and each of them, jointly and severally, allege as follows:

I.

That at all times material herein Plaintiffs were and now are residents of the City of Orem, Utah County, State of Utah.

II.

That at all times material herein Defendants Jack Lott and Kathleen S. Lott (hereafter Lott), were and now are residents of the City of Iona, Bonneville County, Idaho. That all allegations

herein to Jack Lott were believed to be with the knowledge and consent and for the benefit of Kathleen S. Lott, his wife.

III.

That at all times material herein Defendants, John Scoresby and Marilyn Scoresby (hereafter Scoresby), were and now are residents of Bonneville County, State of Idaho. That all allegations herein to John Scoresby were believed to be with the knowledge, consent and for the benefit of Marilyn Scoresby, his wife.

IV.

That at all times material herein the Defendant, George Hansen, individually, and d/b/a Ideal Consultants and/or George Hansen & Associates (hereafter Hansen), may have been a resident of the State of Idaho and was doing business with Plaintiffs and others in the State of Idaho participating directly or indirectly in the causes and/or acts herein alleged by Plaintiffs.

V.

That at all times material herein Defendants, John Does and Sally Does (hereinafter Does), were either residents of the State of Idaho or were doing business in the State of Idaho and as such participated directly or indirectly with George Hansen, Lott and/or Scoresby in the causes and/or acts herein alleged by Plaintiffs and Plaintiffs do not now fully know the names and/or acts of said Does and thus reserves the right to amend this Complaint to include said Does when learned.

VI.

That at all times material herein the Defendant, George Hansen, individually and d/b/a Ideal Consultants and/or George

Hansen & Associates, was engaged in the State of Idaho and else where the sale, offering for sale, issuance and acceptance to Plaintiffs and others, in Interstate and Intrastate Commerce, certain non-exempt and unregistered securities namely Promissory Notes, other documents of indebtedness and/or an investment scheme while Defendant Hansen was unregistered or unlicensed to do so and without providing purchasers or persons participating therein, including Plaintiffs herein, with the required disclosures all of which actions were and are in violation of the Securities Act of 1933 as amended (15 USCS 77a et seq.); the Idaho Securities Act (I.C. 30-1401 et seq.); and the Utah Security Act (61-1-1 et seq.).

VII.

That such Notes, loan program and investment scheme is "other evidence of indebtedness" and are securities as securities are defined by the Securities Act of 1933 as amended (15 USCS 77 b); The Idaho Securities Act (I.C. 30-1402(12)); and The Utah Securities Act (U.C. 61-1-1 et seq.).

VIII.

That at all times material herein the Defendants Lott, Scoresby and Does, for consideration and/or compensation to them paid by Hansen or his agents, were acting and acted, directly or indirectly, as agents, salesmen, promoters, investment advisors, etc., for said George Hansen in the solicitation, offering for sale, sale and/or issuance of subject non-exempt and non-registered securities described above and while all of said Defendants were unlicensed and/or unregistered to do so and without providing to participants, including Plaintiffs herein, with the disclosures as required by law all of which actions was and are in violation of

the Securities Act of 1933 as amended; the Idaho Securities Act; and the Utah Securities Act (U.C. 61-1-1(et seq.)).

IX.

That beginning on or about March, 1989, and continuing through February, 1990, Defendants Lott, Scoresby and Hansen solicited Plaintiffs to purchase the subject Hansen Securities; to invest in the Notes, loan program and investment scheme of Defendant Hansen that in so doing, Defendants Lott and Scoresby also advised Plaintiffs as to the value, security and advisability of purchasing or investing in the Hansen Securities, loan program and investment scheme.

X.

That as a part of, and in connection with Lotts solicitation of and in advising Plaintiffs to purchase and/or invest in the Hansen securities, Defendant Lott represented to Plaintiffs, among other things, the following:

- a. That the Hansen loan investment program was very lucrative and sound;
- b. That Lott had invested over \$100,000.00 of his own personal funds in the program and earned substantial income from investment of his own funds with Hansen;
- c. That Lott had obtained and convinced others to participate in the Hansen investment program;
- d. That the Hansen securities and/or investment program was secure and that everyone who had invested had been paid back and would be paid back;
- e. That Lott knew of many wealthy Americans who had donated tremendous sums to Mr. Hansen's program including Hansen's "Free America Foundation" that was a part of the Hansen Securities Investment Program;

- f. That Ronald Reagan and George Bush had personally given Hansen \$8,000,000.00 to help fund Hansen's investment programs for which the loans (securities) to be purchased by Plaintiff would be used;
- g. That if Plaintiffs would purchase or invest in such securities, notes or investment programs they would be a part of the "Jack Lott Group" and as such, would receive a higher rate of interest on investment than would other investors i.e. 10% per month;
- h. That everyone who had ever loaned money to Hansen had been paid back in full and no one had ever lost money with Hansen.
- i. That Hansen was current on all interest payments and that all persons who had ever loaned Hansen money had received all interest that was due.

XI.

That as a further part of the solicitation of Plaintiffs, Defendant Hansen further described and confirmed the representations of Defendant Lott concerning various projects and told Plaintiffs that they would be placed in the "Jack Lott Group" to receive better treatment and interest rates. That Defendants Hansen, Lott and Scoresby also represented to Plaintiffs that Defendants Lott and Scoresby were field representatives and in charge of the transactions for the Hansen loan program.

XII.

That Plaintiffs relied on the solicitations and representations of Defendant Lott, Scoresby and Hansen and based thereon Plaintiffs sold and liquidated a substantial portion of their assets, and from February 22, 1990 through August of 1990, purchased Hansen Securities and invested \$349,350.00 in the Hansen Securities, loan program and investment scheme. That such securities and loan investments were purchased based upon the

representations of Defendants Lott and Hansen through Defendant Scoresby who accepted the \$349,350.00 on behalf of Hansen with all such Defendants knowing, having reason to know that Hansen, Lott and Scoresby were not licensed, that said securities were not exempt and that said securities were not registered. Or in the absence of negligence or reckless disregard of the true facts, the Defendants Lott, Scoresby and Hansen would have known that they were not licensed, that the securities were not exempt and were not registered.

XIII.

That at the time of the solicitations and Plaintiffs' purchase of the Hansen securities, as aforesaid, Plaintiffs relied on Lotts' statements, Hansen's statements and those of Scoresby and Plaintiffs were not personally knowledgeable about the financial resources, standing and condition of Hansen, Hansen's companies or with the nature, quality and validity of the Hansen Securities offered except as represented to them by Defendants Lott, Hansen and Scoresby.

XIV.

That the representations of Defendant Lott, as aforesaid, were untrue and that at the time same were made by Lott, Lott knew or should have known that such statements were material and untrue and Lott made such statements intentionally, negligently and/or in reckless disregard for the truth for the purpose of inducing Plaintiffs to purchase or invest in the Hansen securities. That in making such statements Lott concealed material facts regarding such investments from Plaintiffs and had Plaintiffs known the truth they would not have so invested.

XV.

That by offering to sell, selling and in advising Plaintiffs to purchase or invest in the Hansen Securities, the Defendants, and each of them violated the prohibitions of the Securities Act of 1933 as amended; the Utah Securities Act; and the Idaho Securities Act including, but not limited to, one or more of the following particulars:

- a. Selling, offering to sell and advising Plaintiffs to purchase the Hansen securities without being licensed and/or registered to do so as required by law including I.C. 30-1406;
- b. Selling, offering to sell or advising Plaintiff to purchase non-exempt securities that were unregistered as required by law including I.C. 30-1416;
- c. Making untrue or misleading statements of material fact to Plaintiffs and/or omitting material facts that if made would have made the statements made not misleading contrary to law including I.C. 30-1403.

XVI.

That as a result of the actions or in actions of Defendants, and each of them, Plaintiffs have been damaged in the sum of \$348,501.93 and pursuant to I.C. 30-1446(1); the Securities Act of 1933 as amended; and the Utah Securities Act; Plaintiffs are entitled to recover from Defendants, and each of them, the sum of \$348,501.93, plus interest, attorneys fees and costs.

XVII.

That Defendant Hansen has failed, refused and neglected to repay the Plaintiffs the \$348,501.93 so loaned and invested and is personally indebted to Plaintiff in the sum of \$348,501.93 after all known credits and offsets together with accrued interest, attorneys fees and costs.

XVIII.

That Plaintiffs do hereby tender back to Defendants, and each of them, the Hansen securities and/or investments so purchased.

WHEREFORE, Plaintiffs pray for judgment against the Defendants, and each of them, as follows:

1. For the sum of \$348,501.93, together with interest at the rate of 6% per annum as provided by the Idaho, Utah and U.S. Securities laws;

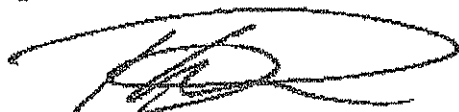
2. For Judgement against the Defendant Hansen in the sum of \$348,501.93 plus interest, attorneys fees and costs;

3. For reasonable attorneys fees of \$5,000.00 if this matter be uncontested and for additional attorneys fees and costs if contested;

4. For costs and disbursements incurred in this proceeding;
and

5. For such other relief as the Court deems just and proper.

DATED this 29th day of April, 1993.



ROGER D. COX, ESQ.
Attorney for Plaintiffs



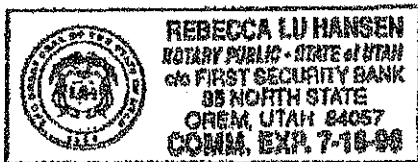
STATE OF UTAH)
) ss.
County of Utah)

JAMES R. MEYERS being first duly sworn on oath, deposes and says that he is the person who executed the foregoing instrument; he has read the same and knows the contents thereof; and the matters stated

therein are true and correct to the best of his knowledge and belief
and that he executed same on behalf of both Plaintiffs.

James R. Meyers
JAMES R. MEYERS

Subscribed and affirmed before me this 29th day of April, 1993.



Rebecca Lu Hansen
NOTARY PUBLIC FOR UTAH
Residing at Orem, Utah
My Commission Expires: 7-16-96

AFFIDAVIT OF SERVICE

DISTRICT COURT
JUDICIAL DISTRICT
HARRISVILLE, MISSISSIPPI

STATE OF VIRGINIA)
County of _____) ss.

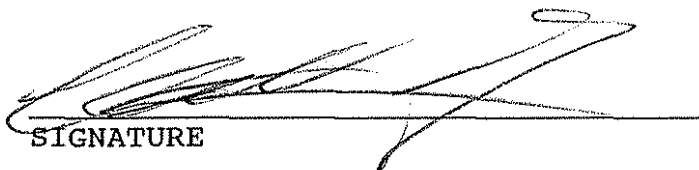
'93 AUG 30 P5:38

I HEREBY CERTIFY that I received copies of the within documents, namely:

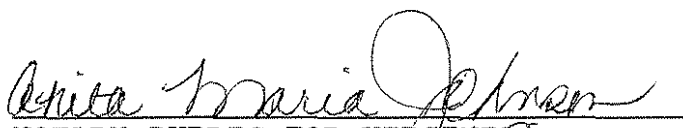
1. ✓ Summons;
2. ✓ Amended Verified Complaint;
3. ✓ Motion to Amend Verified Complaint;
4. ✓ Memorandum in Support of Motion to Amend Verified Complaint;
5. ✓ Order on Motion to Amend Complaint;
6. ✓ Motion for Personal Service Outside of State;
7. ✓ Affidavit for Order of Personal Service Outside of State;
8. ✓ Order for Personal Service Outside of the State;

on the 23 day of AUGUST, 1993, and personally served same on the 23 day of AUGUST, 1993, on **GEORGE HANSEN** individually and d/b/a **IDEAL CONSULTANTS** and/or **GEORGE HANSEN & ASSOCIATES**.

DATED this 23 day of AUGUST, 1993.

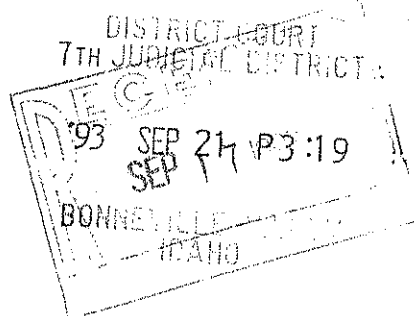

SIGNATURE

SUBSCRIBED AND SWORN to before me this 23rd day of August, 1993.


NOTARY PUBLIC FOR VIRGINIA
Residing at: State of Virginia
My Commission Expires August 31, 1995

ROGER D. COX, ESQ.
COX, OHMAN & BRANDSTETTER, CHARTERED
510 "D" Street
P.O. Box 51600
Idaho Falls, Idaho 83405
(208) 522-8606

ATTORNEYS FOR: Plaintiff



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

JAMES R. MEYERS and ANN T.
MEYERS, husband and wife,

Plaintiffs,

vs.

JACK LOTT and KATHLEEN S.
LOTT, husband and wife, JOHN
SCORESBY and MARILYN SCORESBY,
husband and wife, GEORGE
HANSEN, individually, and
d/b/a IDEAL CONSULTANTS
and/or GEORGE HANSEN and
ASSOCIATES; and JOHN DOES
and SALLY DOES 1 thru 10,

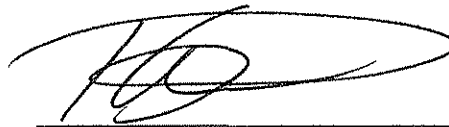
Defendants.

Case No. CV 93-822

MOTION AND ORDER FOR
ENTRY OF DEFAULT

COMES NOW the Plaintiffs, James R. Meyers and Ann T. Meyers, by their attorney, Roger D. Cox, Esq., and moves the Court for Order entering the Default of the Defendant, George Hansen, individually, and d/b/a Ideal Consultants and/or George Hansen and Associates, in the within matter on the grounds and for the reason that Defendant, George Hansen, individually, and d/b/a Ideal Consultants and/or George Hansen and Associates, was duly served with Summons and Complaint on August 23, 1993, and has not made an appearance or filed an answer to Plaintiffs' Complaint herein.

DATED this 17 day of September, 1993.



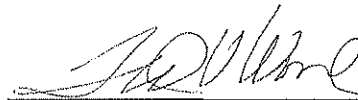
ROGER D. COX, ESQ.

ORDER

Upon reading and filing the foregoing Motion of the Plaintiffs, and good cause appearing therefore,

IT IS HEREBY ORDERED that the Clerk of the Court shall enter herein the Default of the Defendant, George Hansen, individually, and d/b/a Ideal Consultants and/or George Hansen and Associates, and Plaintiffs may hereafter apply to this Court for entry of Default Judgment against Defendant, George Hansen, individually, and d/b/a Ideal Consultants and/or George Hansen and Associates, herein.

DATED this 21 day of September, 1993.



HONORABLE TED V. WOOD

~~Magistrate Judge~~

~~District~~

NOTICE OF ENTRY

I HEREBY CERTIFY that a copy of the foregoing was this 21 day of September, 1993, mailed to every party affected thereby, as follows:

Roger D. Cox, Esq.
P.O. Box 51600
Idaho Falls, Idaho 83405

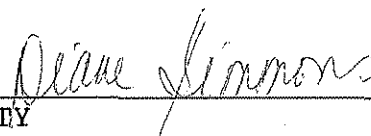
George Hansen, Inmate
Federal Correctional Institute
Petersburg, Virginia 23804-1000

John F. Scoresby and
Marilyn Scoresby
425 Montcliff
Idaho Falls, Idaho 83401

CLERK

44

DEPUTY



29

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

DISTRICT SEVENTH JUDICIAL COURT
BONNEVILLE COUNTY, IDAHO

JAMES R. MEYERS, ET UX.,

'97 APR -3 110:06

Plaintiff(s),

Case No. CV93-822

vs.

Affidavit of Service

JACK LOTT, ET AL.,

Defendant(s).

I, Bart Mower, being first duly sworn, depose and say:

I am a citizen and private process server residing in the county of Bannock, state of Idaho, over the age of eighteen (18), and not a party to or interested in these proceedings.

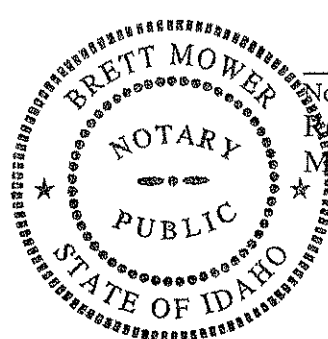
I hereby certify that on the 19th day of March, 1997, at 10:00 AM, I received the within and hereto annexed Subpoena Duces Tecum and Witness Check.

On the 19th day of March, 1997, at 11:50 AM, I served a true and correct copy upon George V. Hansen, at his usual place of abode, 1024 renee, Pocatello, Idaho, the within named individual personally, by delivering to and leaving the above named documents with George V. Hansen.

Bart Mower

Process Server

Subscribed and Sworn to before me this 20th day of March in the year 1997, before me, a Notary Public, personally appeared Bart Mower, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.



Brett Mower

Notary Public
Residing at Pocatello, Idaho
My Commission expires: 3-14-2001

March 31, 1998 AT
1:45 P.M.

JAMES C. HERNDON
District Judge

IN THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO
IN AND FOR THE COUNTY OF BONNEVILLE

JAMES R. MEYERS and ANN T.
MEYERS, husband and wife,

Plaintiff,

vs.

JACK LOTT and KATHERINE LOTT,
et. al.,

Defendant.

Case No. CV-93-822

MEMORANDUM DECISION AND ORDER
RE: RECONSIDERATION

I. INTRODUCTION

Ann Meyers ("Meyers") claims Jack Lott induced her participation in the "George Hansen Loan Program," an investment scheme created by George Hansen and John Scoresby. Lott obtained summary judgment since Meyers failed to show Lott had "sold" securities to her and her husband.¹ Ms. Meyers seeks reconsideration on the strength of two new affidavits: she asserts Lott provided the sole source of information for her purchase of the loan program; her accountant claims that "other checks" show Lott's "financial motivation" in the program. Lott

¹ See Memorandum Decision and Order Re: Summary Judgment, filed June 12, 1997 ("June Order").

claims this "new evidence" simply contradicts earlier sworn testimony.

The Court will not reconsider its order granting summary judgment for the following reasons:

1. Ms. Meyers's affidavit raises no issues of fact about Lott's financial motivation.
2. Alan Suderman's second affidavit fails to raise facts about Lott's "anticipated" share in the Meyers "investment."
3. Ms. Meyers has shown no other reasons to justify reconsideration.

II. BACKGROUND AND PROCEEDINGS

Meyers and her husband James - now deceased - invested nearly \$400,000 in an investment scheme piloted by George Hansen and John Scoresby. Lott also invested in this program. The scheme failed - Meyers never got the return they expected - and Hansen and Scoresby were convicted of securities fraud and other crimes. Ann and James Meyers sued Lott, asserting that Lott's participation in the scheme made him a seller under federal and state securities laws.

The Court awarded partial summary judgment in June, 1997, concluding that Meyers raised insufficient facts for trial on Lott's liability. John Scoresby has been dismissed from the case since September 11, 1997. On October 28, 1997, Meyers moved for reconsideration. She submitted her second affidavit and Alan Sunderman's second affidavit to support the motion. The Court

entered its Rule 54(b) certificate on October 29, 1997. Lott filed his motion to strike the new affidavits on October 31, 1997.

III. ANALYSIS

A. Standard of Review.

Meyers does not clearly identify the rules that support her motion. Apparently, she seeks reconsideration under Idaho R.Civ.P. (IRCP) 11(a)(2)(B). On the other hand, she may seek relief under Rule 60(b) - particularly where she submits new evidence in the affidavits. The Court focuses on Rule 11 because Meyers filed her motion before it entered final judgment.

1. Reconsideration under rule 11(a)(2)(B).

On a motion for reconsideration, the trial court reviews:

any new facts presented by the moving party that bear on the correctness of the interlocutory order. The burden is on the moving party to bring the trial court's attention to the new facts. [The trial court is] not required to search the record to determine if there is any new information that might change the specification of facts deemed to be established.²

Rule 11(a)(2)(B) requires "new" facts, or disclosure of additional facts within the record.³ If these facts exist, the moving party must disclose them to the Court.

² Couer d'Alene Mining Co. v. First Nat'l Bank of Northern Idaho, 118 Idaho 812, 823, 800 P.2d 1026, 1037 (1990) (emphasis added).

³ Id.

2. Rule 60(b).

Rule 60(b) requires a showing of good cause and specifies particular grounds upon which relief may be granted.⁴ The Court has considerable discretion whether to grant or deny a motion for reconsideration. Generally, relief from judgment requires presentation of new evidence justifying relief. If a party prepares "new evidence" after a decision is rendered, the court considers whether the party - exercising due diligence - could have offered the material before a final decision. The Court denies relief where the party fails to diligently prepare the material.⁵

3. New affidavits may not contradict prior sworn testimony.

The Court may disregard an affidavit which directly contradicts prior testimony.⁶ But the Court must first decide whether the affidavit contradicts existing testimony. If it does, the affidavit creates no new issues of fact precluding summary judgment.⁷ The party offering the contradictory statement must explain the contradiction, or show that the contradiction is

⁴ Lowe v. Lym, 103 Idaho 259, 646 P.2d 1030 (Ct.App. 1982); see also, First Bank & Trust of Idaho v. Parker Bros., Inc., 112 Idaho 30, 730 P.2d 950 (1986); Ade v. Batten, 126 Idaho 114, 878 P.2d 813 (Ct.App. 1994).

⁵ See, e.g., Savage Lateral Ditch Co. v. Pulley, 125 Idaho 237, 869 P.2d 554 (1993); Kennedy v. Allied Mut., *infra*, n. 7.

⁶ In Re Estate of Keewan, 126 Idaho 290, 298, 882 P.2d 457, 465 (Ct.App. 1994).

⁷ Tolmie Farms v. J.R. Simplot Co., 124 Idaho 607, 610, 862 P.2d 299 (1993), citing Kennedy v. Allied Mut., 952 F.2d 262, 266-67 (9th Cir. 1991).

an honest discrepancy, mistake, or the result of newly discovered evidence.⁸

B. Meyers's New Affidavit Does Not Show New Facts Precluding Summary Judgment.

Meyers now alleges Lott came to her home and persuaded her to join the loan program. She refused to allow James Meyers to invest in the program unless she heard Lott's presentation and formed her own opinion. Meyers admits she discussed the program with her husband, who had talked several times with Lott about the loan scheme. But Meyers also claims she made an "independent" decision. She claims she invested her separate property, relying only on the presentation Lott made to them in October, 1989.

Meyers's new statements highlight some contradictions - and minimal inconsistencies - with her earlier deposition and affidavit. There, she unequivocally testifies:

1. She and her husband decided to liquidate their Diet Center franchises.
2. She characterizes the couple's decision to invest as mutual.
3. The investment funds belonged to the couple; the franchises belonged to Jim and Ann.

⁸ See, e.g., Jack v. Trans World Airlines, 854 F.Supp. 654, 660 (N.D.Cal. 1994); Bank of Illinois v. Allied Safety Restraint Systems, 75 F.3d 1162, 1169 (7th Cir. 1996) ("sham" includes statements which are inherently inconsistent or where the contradiction is not the result of an honest discrepancy or newly discovered evidence).

4. Ann never personally notified Lott she intended to invest individually. Nothing in the deposition or earlier affidavit indicate she intended to invest as an individual.
5. Ann never alleged she invested her own separate property in the loan program.
6. Ann never alleged her claims were based on the statements Lott made to her.

At worst, Ms. Meyers provides no evidence supporting her new statements. At best, the new affidavit restates earlier claims, except in the singular pronoun. Given these contradictions, Meyers must at least explain that the new claims arose as an honest discrepancy, or she discovered new evidence that should be considered.⁹ She does not.

Meyers's second affidavit suffers from more a serious flaw: none of the new statements justify reconsideration. It asserts that Lott was a "substantial factor" in the couple's decision to join the loan program. This Court determined that the substantial factor test did not apply to Idaho's security laws. Meyers's statements do nothing to change the Court legal conclusions.

Even if she relied only on Lott, Meyers must still show he was a "substantial factor" in the sale. The June Order explains the Court's decision.¹⁰ To defeat summary judgment, Ms. Meyers

⁹ See, e.g., Savage Lateral Ditch Co. v. Pulley, 125 Idaho 237, 869 P.2d 554 (1993).

¹⁰ See, June Order at p. 21-24.

must develop genuine factual issues, not assumptions. James Meyers may have informed Lott that he and Ann wanted to invest. Lott may have informed George Hansen that the Meyers were ready to invest. But Ms. Meyers does not deny that James Meyers - not Ann - controlled the investment schedule, and they made their investments through John Scoresby - not Lott. These facts do not extend Lott's liability as a "substantial factor".

C. Alan Suderman's Affidavit Does Not Justify Reconsideration.

Through Alan Suderman, Ann Meyers attempts to create an issue of fact about Lott's "financial motivation," or at least his anticipation of future benefits. Suderman bases his conclusions on nine mystery checks Lott received while Meyers invested in the program. Suderman, however, gives no factual basis for his conclusion that the "other" checks compensated Lott for the Meyers's participation in the program.

Moreover, Suderman does not explain why these calculations were not included in his first affidavit. The checks are not new - Suderman did not leave them out of his first calculations - and could not change the Court's conclusion. The calculations do not show that Hansen had a consistent program to compensate his "sales force." According to Suderman, Lott expected a commission from his work with Meyers. Instead, the calculations simply support the Court's ultimate conclusion: any compensation scheme was applied haphazardly - with such inconsistency that Lott would

not reasonably benefit from Meyers's investments.¹¹ Suderman does not successfully correlate these "other" checks with the Meyers loans.

Certainly, Suderman's new affidavit colors the inferences drawn in Meyers's favor. But the new affidavit fails to raise a genuine issue of material fact that Lott had the required financial interest in the Meyers's decision.¹²

D. Meyers Does Not Request, And Cannot Show, Any Other Justification For Reconsideration.

Meyers apparently bases her motion on Rule 11(a)(2)(B). The Court reviewed the grounds for Rule 60(b) relief, but could not justify using it. The Court did, however, consider justifying relief under Rule 60(b)(6). Nothing supports the Court's independent attempt to reconsider its earlier opinion.

The Court considers the record, the new affidavits, and its first decision's legal footing. Ann's new affidavit thoroughly contradicts her earlier testimony, and the Court will not consider it. Further, it adds nothing new to the record. Alan Suderman simply re-works the calculations and conclusions he made in opposition to the motion for summary judgment. They both present new interpretations of existing facts, which were

¹¹ See, e.g., S.E.C. v. Meadows, 119 F.3d 1219 (5th Cir. 1997) (shareholder may benefit from increased investments in company).

¹² Id. at 1226 (substantial evidence must show financial motive).

available to the Court at the initial decision. As a result, Meyers fails to show compelling justification for reconsideration.¹³


IV. CONCLUSION AND ORDER

The Court cannot reconsider its decision based on Meyers's "new" affidavits. It will strike Ann Meyers's affidavit. Alan Suderman's affidavit, while not inherently contradictory, offers nothing that could not have been disclosed before the Court's first opinion. Moreover, Meyers offers nothing for the Court to reconsider. No genuine issues of material fact justify a trial.

The Court **denies** Meyer's Motion to Reconsider. It **grants** Lott's Motion to Strike the new affidavits.

IT IS SO ORDERED.

DATED this 31st day of March, 1998.



James C. Herndon
District Judge

¹³ See Puphal v. Puphal, 105 Idaho 302, 669 P.2d 191 (1983); In Re Bagley, 117 Idaho 1091, 793 P.2d 1263 (Ct.App. 1990).

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on March 31, 1998, I served a true copy of the foregoing on the persons listed below by mailing, first class, postage prepaid, or by hand delivery.

Walter H. Bithell P.O. Box 2527 Boise ID 83701

James D. Holman 2635 Channing Way Idaho Falls id 83404

RON LONGMORE, Bonneville County Clerk

(S E A L :)

for Leab Jones
Deputy Clerk

Ann T. Meyers
Plaintiff Pro Se
1000 East River Haven Circle
Orem, Utah 84097
(801) 224-1222

DISTRICT 7TH JUDICIAL COURT
BONNEVILLE COUNTY, IDAHO

'98 MAY 11 A9:48

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR BONNEVILLE COUNTY**

JAMES R. MEYERS and ANN T. MEYERS,)
husband and wife,)

Plaintiffs/Appellants,)

vs.)

JACK T. LOTT and KATHLEEN S. LOTT,)
husband and wife, JOHN SCORESBY and)
MARILYN SCORESBY, husband and wife,)
GEORGE HANSEN, individually, and d/b/a)
IDEAL CONSULTANTS and/or GEORGE)
HANSEN and ASSOCIATES; and JOHN)
DOES and SALLY DOES 1 thru 10,)

Defendants/Respondents.)

Case No. CV-93-822

NOTICE OF APPEAL

TO: THE ABOVE-NAMED RESPONDENTS, THEIR ATTORNEYS OF RECORD AND THE
CLERK OF THE ABOVE-ENTITLED COURT.

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant Ann T. Meyers (as plaintiff and as a substituted plaintiff for James R. Meyers) appeals against the above-named respondent Jack Lott to the Idaho Supreme Court from the Memorandum Decision and Order Re: Reconsideration entered in the above-entitled action on March 31, 1998, and the Memorandum Decision and Order re: Summary Judgment entered in the above-entitled action on June 12, 1997, the Honorable Judge James C. Herendon presiding.

NOTICE OF APPEAL -1-

2. The appellant has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders pursuant to Idaho App. R. 11(a)(3).

3. The following are preliminary statements of the issues which the appellant intends to assert in the appeal; however, such statements of issues shall not prevent the appellant from asserting other issues on appeal:

A. Whether the District Court erred in granting summary judgment based upon its finding that no genuine issues of material fact existed in the case.

B. Whether the District Court applied the wrong standard in deciding the motion for reconsideration of the summary judgment, and therefore analyzed the motion for summary judgment incorrectly.

C. Whether the District Court improperly struck the second affidavits of Ann T. Meyers and Alan Suderman.

4. The appellant requests the preparation of the following portions of the reporter's transcript:

A. Oral Argument on Plaintiff's Motion for Reconsideration on January 7, 1998.

5. The appellant requests the following documents to be included in the clerk's record in addition to those automatically included under I.A.R. 28.

A. Defendant's Memorandum in Support of Motion for Summary Judgment dated January 29, 1997.

B. Defendant's Statement of Undisputed Material Facts dated January 29, 1997.

C. Plaintiff's Statement of Undisputed Material Facts dated May 13, 1997.

D. Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgment dated May 13, 1997 (without attachments).

E. Plaintiff's Affidavit of Counsel dated May 13, 1997 (including exhibits).

- F. Reply Brief- Defendant's Motion for Summary Judgment dated May 22, 1997.
- G. Objection to Plaintiff's Statement of Undisputed Material Facts dated May 22, 1997.
- H. Defendant's Motion to Strike Portions of Affidavits of Devon Bratsman and Allen E. Suderman dated May 22, 1997.
- I. Order Substituting Party dated June 4, 1997.
- J. Objection to Defendant Jack Lott's Motion to Strike Portions of Affidavits of Devon Bratsman and Allen E. Suderman dated June 6, 1997.
- K. Defendant's Motion for Award of Costs dated June 24, 1997.
- L. Defendant's Memorandum Re: Costs; Affidavit of Attorney dated June 24, 1997.
- M. Plaintiff's Objection to Motion for Award of Costs dated July 8, 1997.
- N. Order of Dismissal [of Scoresbys] dated September 11, 1997.
- O. Judgment for Costs dated September 11, 1997.
- P. Plaintiff's Motion for Reconsideration dated October 24, 1997.
- Q. Plaintiff's Memorandum in Support of Motion for Reconsideration dated October 24, 1997.
- R. Plaintiff's Second Affidavit of Counsel dated October 24, 1997 (including exhibits).
- S. Second Affidavit of Ann Meyers in Support of Motion for Reconsideration dated October 24, 1997.
- T. Second Affidavit of Allen E. Suderman dated October 24, 1997 (including exhibits).
- U. Rule 54(b) Certificate dated October 29, 1997.

V. Defendant's Objection to Affidavits of Ann Meyers and Allen Suderman and Motion to Strike dated October 31, 1997.

W. Defendant's Memorandum in Support of Motion to Strike dated October 31, 1997.

X. Defendant's Brief in Opposition to Motion for Reconsideration dated November 3, 1997.

Y. Plaintiff's Objection to Defendant Jack Lott's Objection to Affidavits of Ann Meyers and Allen Suderman and Motion to Strike dated November 14, 1997.

Z. Plaintiff's Reply Memorandum in Support of Motion for Reconsideration dated November 18, 1997.

AA. Defendant's Supplemental Memorandum in Opposition to Motion for Reconsideration dated January 8, 1998.

6. The appellant requests that the exhibit offered in the hearing on motion for reconsideration by plaintiff be transferred to the Supreme Court, namely the original color photocopy of the microfilm record of check 3046 dated June 1, 1989 from Ideal Consultants to Jack Lott.

7. I certify:

A. That a copy of this notice of appeal has been mailed to the reporter.

B. That the appellate filing fee of \$86 has been paid.

C. That the appellant is exempt from paying the transcript fee because she is indigent pursuant to the definition in Idaho Code § 31-3220.

D. That the appellant is exempt from paying the fee for preparation of the clerk's record because she is indigent pursuant to the definition in Idaho Code § 31-3220.

E. That service has been made upon all parties required to be served pursuant to Idaho App. R. 20 by mailing a true and correct copy of the Notice of Appeal in the United States mail with postage prepaid on the 8th day of May, 1998, addressed as follows:

Ron Longmore
Clerk of the Court
Bonneville County
605 North Capital Avenue
Idaho Falls, ID 83402
(sent via overnight mail)


Judge James C. Herndon
Seventh Judicial District Court
P.O. Box 717
Blackfoot, ID 83221
(sent via U.S. Mail)

Darrell D. Ruckman
Court Reporter
Seventh Judicial District Court
P.O. Box 717
Blackfoot, ID 83221
(sent via U.S. Mail)


James D. Holman
Attorney for Jack & Kathleen Lott
Thomsen & Stephens
2634 Channing Way
Idaho Falls, ID 83404
(sent via U.S. Mail)

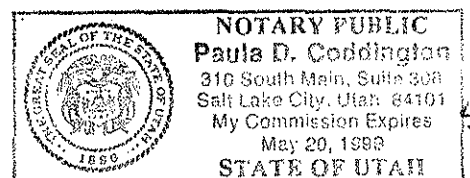
George V. Hansen
1024 Renee
Pocatello, Idaho 83201
(sent via U.S. Mail)

DATED this 8th day of May, 1998.


ANN T. MEYERS, Appellant
1000 East River Haven Circle
Orem, Utah 84097

SUBSCRIBE and SWORN to before me this 8th day of May, 1998.


NOTARY PUBLIC
Residing at: *bn. 3rd. UT*
May 20, 1998



IDAHO SUPREME COURT



IDAHO COURT OF APPEALS

Clerk of the Courts
(208) 334-2210

P.O. Box 83720
Boise, Idaho 83720-0101

JANUARY 6, 2000

RONALD LONGMORE
ATTN: CHERYL HAGERTY
BONNEVILLE COUNTY COURTHOUSE
605 N CAPITAL AVENUE
IDAHO FALLS ID 83402

ACKNOWLEDGMENT OF RECEIPT OF OPINION

Docket No. (App) MEYERS, ANN T.
V.
24700 (Res) LOTT, JACK T.

BONNEVILLE
DC Docket #
CV93-822

Enclosed herewith for the above-entitled case for filing in your office is the OPINION in this case.

The OPINION has been received and filed.

By Cheryl Hagerty

Date: 1/6/00

**** PLEASE NOTE: YOU MUST SIGN AND DATE THIS RECEIPT AND ****
**** RETURN TO THIS OFFICE IMMEDIATELY. ****

FILED IN CHAMBERS AT BLACKFOOT,
BINGHAM COUNTY, IDAHO

September 15, 2000 AT

James C. Herndon
JAMES C. HERNDON
District Judge

**IN THE SEVENTH JUDICIAL DISTRICT OF THE STATE OF IDAHO
IN AND FOR THE COUNTY OF BONNEVILLE**

JAMES R. MEYERS and ANN T.
MEYERS, husband and wife,

Plaintiff,

vs.

JACK LOTT and KATHLEEN LOTT, et.
al.,

Defendant.

Case No. CV-93-822

**ENTRY OF JUDGMENT ON SPECIAL
VERDICT**

The matter having come on trial before the Court and a jury, the Honorable James C. Herndon, District Judge, presiding, and the issues having been duly tried and a jury having duly returned a special verdict against the Plaintiffs:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that judgment be entered for defendants and against plaintiffs.

DATED this 15th day of September, 2000.

James C. Herndon
James C. Herndon
District Judge

ENTRY OF JUDGMENT 1

ORIGINAL

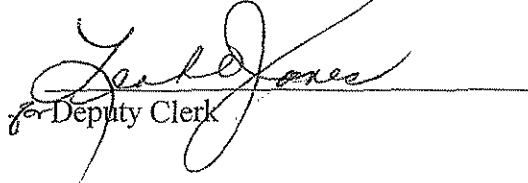
CERTIFICATE OF MAILING

I HEREBY CERTIFY that on 21 Sept 2000, I served a true copy of the foregoing on the persons listed below by mailing, first class, postage prepaid, or by hand delivery.

Douglas Nelson	409 N. Main	Hailey ID 83333
James D. Holman	2635 Channing Way	Idaho Falls id 83404

RON LONGMORE, Bonneville County Clerk

(SEAL)


Deputy Clerk

ORIGINAL

James D. Holman
THOMSEN and STEPHENS, P.A.
2635 Channing Way
Idaho Falls, ID 83404
Telephone No. (208) 522-1230
Fax No. (208) 522-1277

2000 DEC -6 AM 8:39
DISTRICT COURT
CLERK'S OFFICE
BONNEVILLE COUNTY
IDAHO

FILED IN CHAMBERS AT BLACKFOOT,
BINGHAM COUNTY, IDAHO

December 4, 2000 AT
10:00 A.M.

James C. Herndon
JAMES C. HERNDON
District Judge

Attorneys for Defendants/Respondents

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

JAMES R. MEYERS and ANN T. MEYERS,)
husband and wife,)

Plaintiffs/Appellants,)

v.)

JUDGMENT ON JURY VERDICT

JACK T. LOTT and KATHLEEN S. LOTT,)
husband and wife, JOHN SCORESBY and)
MARILYN SCORESBY, husband and wife,)
GEORGE HANSEN, individually, and)
d/b/a IDEAL CONSULTANTS and/or)
GEORGE HANSEN and ASSOCIATES; and)
JOHN DOES and SALLY DOES I thru 10,)

Defendants/Respondents.)

On September 11 through 15, 2000, this matter was tried before Bonneville County jury.

On Friday, September 15, 2000, the jury returned a unanimous verdict in favor of defendants Jack Lott and Kathleen Lott and against plaintiffs Ann T. Meyers and the estate of James R. Meyers.

The jury having decided in favor of said defendants, and the parties having resolved the issue of costs among themselves pursuant to stipulation, it is hereby ORDERED that judgment is entered

1 - JUDGMENT ON JURY VERDICT

in favor of defendants Jack Lott and Kathleen Lott and against plaintiffs Ann T. Meyers and the estate of James R. Meyers, dismissing plaintiffs' complaint with prejudice.

DATED this 4th day of December, 2000.

By: 
James C. Herndon, District Judge

CLERK'S CERTIFICATE OF MAILING

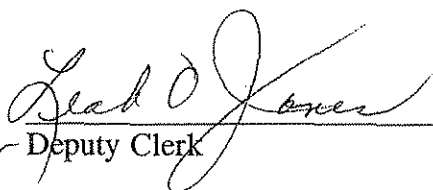
I certify that I am the duly elected and qualified Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville; that I mailed [or delivered by courthouse box] a copy of the foregoing JUDGMENT ON JURY VERDICT to the following attorneys this 4th day of December, 2000.

JAMES D HOLMAN ESQ
THOMSEN & STEPHENS
2635 CHANNING WAY
IDAHO FALLS ID 83404

R KEITH ROARK ESQ
ROARK LAW FIRM LLP
409 N MAIN
HAILEY ID 83333

RONALD LONGMORE

Clerk

By: 
for Deputy Clerk

JDH:sjl
1188\110 Judgment on verdict

R. KEITH ROARK, ESQ.
THE ROARK LAW FIRM
Attorneys at Law
409 North Main Street
Hailey, Idaho 83333
Ph: 208-788-2427
Fax: 208-788-3918
ISB # 2230

FILED IN CHAMBERS AT BLACKFOOT,
BINGHAM COUNTY, IDAHO

September 25, 2001 AT
4:10 P.M.

James C. Herndon
JAMES C. HERNDON
District Judge

ORIGINAL

Attorneys for Plaintiffs Ann T. Meyers and
Ann T. Meyers as Personal Representative of
Estate of James R. Meyers

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

JAMES R. MEYERS and ANN T.
MEYERS, husband and wife,

Plaintiffs,

vs.

JACK LOTT and KATHLEEN S. LOTT,
Husband and wife, JOHN SCORESBY
and MARY SCORESBY, husband
and wife, GEORGE HANSEN,
individually, and d/b/a IDEAL
CONSULTANTS and/or GEORGE
HANSEN and ASSOCIATES; and JOHN
DOES and SALLY DOES 1 through 10,

Defendants.

Case No. CV-93-822

PLAINTIFF'S APPLICATION
FOR DEFAULT JUDGMENT
AGAINST GEORGE HANSEN

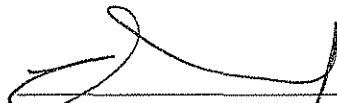
COMES NOW Ann T. Meyers, by and through counsel, R. Keith
Roark of The Roark Law Firm, and hereby makes application to the Court pursuant to

I.R.C.P. 55(b)(2) for the entry of a Default Judgment in this matter against George Hansen, individually, and d/b/a/ Ideal Consultants and/or George Hansen and Associates. This application is supported by the Affidavit of Ann T. Meyers, dated July 7, 1999.

DATED this 25th day of September, 2001.

THE ROARK LAW FIRM

By:



R. Keith Roark
Counsel for Plaintiff

R. KEITH ROARK, ESQ.
 THE ROARK LAW FIRM, LLP
 Attorneys at Law
 409 North Main Street
 Hailey, Idaho 83333
 Ph: 208/788-2427
 Fax: 208/788-3918

FILED IN CHAMBERS AT BLACKFOOT,
 BINGHAM COUNTY, IDAHO

September 25, 2001
4:40 P.M.

James C. Herndon
 JAMES C. HERNDON
 District Judge

ORIGINAL

Attorneys for Plaintiffs.

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
 STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

JAMES R. MEYERS and ANN T.
 MEYERS, husband and wife,

Plaintiffs,

vs.

GEORGE HANSEN, et al.

Defendants.

Case No. CV-93-822

AFFIDAVIT OF
 ALLEN SUDERMAN

STATE OF CALIFORNIA,)
) ss.
 County of _____)

COMES NOW, Allen Suderman, who, upon oath duly sworn, deposes and
 states as follows:

1. I am a certified public accountant, licensed in and by the State of
 California and have practiced accountancy both in the states of California and Idaho.

2. I have previously testified at trial in this cause of action and am
 personally familiar with all the facts and circumstances upon which the calculations averred
 herein are based.

3. I have calculated all of the funds transferred from the account of James
 and Ann Meyers to George Hansen and Idaho Consulting, defendants herein. The total

AFFIDAVIT OF ALLEN SUDERMAN - 1


amount of the Meyers' investment, net of repayments made by the defendants, totals \$299,350.00.

4. I have also calculated the amount of interest which has accrued since the approximate date of insolvency by the defendants at the rate of nine (9%) percent per annum. A copy of these calculations is attached hereto and incorporated by reference herein as Exhibit A.

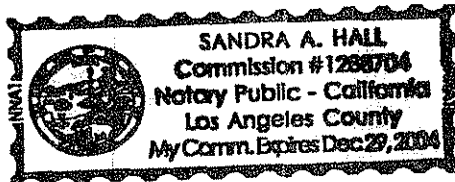
5. The total outstanding balance owed to the defendants George Hansen, including principal and interest, amounts to \$732,927.00 as of January 31, 2001.


FURTHER YOUR AFFIANT SAYETH NOT.

DATED this 9th day of February, 2001.


Allen Suderman

SUBSCRIBED AND SWORN to before me this 9th day of February, 2001.




NOTARY PUBLIC FOR CALIFORNIA
Residing at: Los Angeles, CA
Commission expires: 12/29/04

James and Ann Meyers
Calculation of Interest on Unrecovered Investment
Exhibit A

<u>Beg of</u> <u>period</u>	<u>End of</u> <u>period</u>	<u>Days</u>	<u>Interest</u> <u>9.00%</u>	<u>Balance</u>
Investment, net of repayments				299,350
09/15/1990	12/31/90	107	7,898	307,248
12/31/1990	12/31/91	365	27,652	334,900
12/31/1991	12/31/92	366	30,141	365,041
12/31/1992	12/31/93	365	32,854	397,895
12/31/1993	12/31/94	365	35,811	433,706
12/31/1994	12/31/95	365	39,033	472,739
12/31/1995	12/31/96	366	42,547	515,286
12/31/1996	12/31/97	365	46,376	561,661
12/31/1997	12/31/98	365	50,550	612,211
12/31/1998	12/31/99	365	55,099	667,310
12/31/1999	12/31/00	366	60,058	727,368
12/31/00	01/31/01	31	5,560	732,927

FILED IN CHAMBERS AT BLACKFOOT,
BINGHAM COUNTY, IDAHO

September 25, 2001 AT
4:10 P.M.

James C. Herndon
JAMES C. HERNDON
District Judge

ORIGINAL

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

JAMES R. MEYERS and ANN T.
MEYERS, husband and wife,

Plaintiffs,

vs.

JACK LOTT and KATHLEEN S. LOTT,
Husband and wife, JOHN SCORESBY
and MARY SCORESBY, husband
and wife, GEORGE HANSEN,
individually, and d/b/a IDEAL
CONSULTANTS and/or GEORGE
HANSEN and ASSOCIATES; and JOHN
DOES and SALLY DOES 1 through 10,

Defendants.

Case No. CV-93-822

DEFAULT JUDGMENT
AGAINST GEORGE HANSEN

THIS MATTER, coming before the court on Plaintiff's complaint, and it appearing to the court that the Defendant was properly served with summons and complaint in Bonneville County Case No. CV-93-822, and has failed to answer or otherwise respond. An Application for Entry of Default, Affidavit of Default, and Entry of Default having been properly entered herein;

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the Plaintiff have Judgment against the Defendant, George Hansen, in the DEFAULT JUDGMENT AGAINST GEORGE HANSEN- 1

sum of \$299,350.00 plus interest in the amount of \$433,577.00 for a total judgment amount of \$732,927.00, plus post-judgment interest thereon at the legal rate, for which sum let execution issue.

DATED this 25th day of September, 2001.



District Judge

Winston V. Beard, ISB #1138
Michael D. Gaffney, ISB #3558
BEARD ST. CLAIR GAFFNEY McNAMARA CALDER, PA
2105 Coronado Street
Idaho Falls, Idaho 83404-7495
Telephone: (208) 523-5171
Facsimile: (208) 529-9732

FILED IN CHAMBERS AT BLACKFOOT,
BINGHAM COUNTY, IDAHO

May 16, 2006 AT

James C. Herndon
JAMES C. HERNDON
District Judge

Attorney for Plaintiffs

**DISTRICT COURT SEVENTH JUDICIAL DISTRICT
BONNEVILLE COUNTY IDAHO**

JAMES R. MEYERS and ANN T.
MEYERS, husband and wife,

Plaintiff,

vs.

JACK LOTT and KATHLEEN S. LOTT,
husband and wife, JOHN SCORESBY and
MARY SCORESBY, husband and wife,
GEORGE HANSEN, individually, and
d/b/a IDEAL CONSULTANTS and/or
GEORGE HANSEN and ASSOCIATES;
and JOHN DOES and SALLY DOES 1
through 10

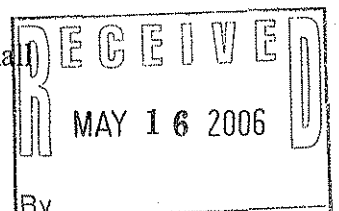
Defendant.

Case No.: CV-93-822

ORDER FOR RENEWED JUDGMENT

Based upon the Plaintiffs' Motion for Renewed Judgment and good cause having
been shown,

IT IS HEREBY ORDERED: that the Judgment against the Defendant, George
Hansen, entered on September 25, 2001 be renewed. Post-judgment interest shall



Order for Renewed Judgment Page 1

continue to accrue at the statutory rate of interest and that execution may be issued on this judgment as provided by law.

Dated: May 16, 2006



DISTRICT JUDGE

CLERK'S CERTIFICATE OF SERVICE

I certify I am a licensed attorney in the state of Idaho and on May 23, 2006, I served a true and correct copy of the ORDER FOR RENEWED JUDGMENT on the following by the method of delivery designated below:

Winston V. Beard
Michael D. Gaffney
Beard St. Clair Gaffney McNamara Calder
2105 Coronado Street
Idaho Falls, ID 83404
FAX: (208) 529-9732

☐ U.S. Mail ☒ Hand-delivered ☐ Facsimile

Clerk of the Court

By:
Deputy Clerk

AFFIDAVIT OF SERVICE OF PROCESS

In The Seventh Judicial District
Bonneville County, Idaho
Case No. CV-93-822

2006 SEP 14 PM 4:05
CLERK OF DISTRICT COURT
SEVENTH JUDICIAL DISTRICT
BONNEVILLE COUNTY

James R. Meyers and Ann T.
Meyers, husband and wife
(*plaintiff*)

VS.

Jack Lott and Kathleen S. Lott
Husband and wife, etal.
(*defendant*)

I Diana R. Hiatt declare under penalty of perjury, under the laws of the United States of America

1) That I am of legal age and sound mind to execute said service.

2) That I am not a party to the action, or have any interest in it.

3) That I executed said service on 09/12/2006 at 11:50 a.m.

Served personally by hand on (XX) defendant, () plaintiff, () witness, () other.

Name, _____.

Place where served, 2529 S. Fairway Dr. Pocatello, ID.

XXX Sub-Service, left copies at the home of defendant / plaintiff with a person of suitable age
And discretion residing therein..

Person Served, Connie Sue Hansen (for George Hansen).

Documents served, 1) Order for Examination of Debtor

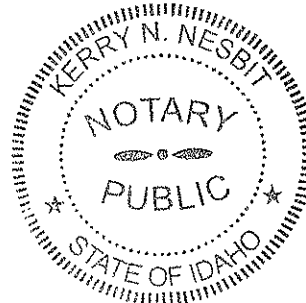
Subscribed and sworn to on oath before me this

12 day of September 2006

Kerry N. Nesbit
Notary Public of Idaho, Residing at Idaho Falls
Commission expires 02/09/2012

Diana R. Hiatt

Ground Zero Investigations, Inc
510 E. 17th St. # 107
Idaho Falls, Id. 83404



JOHN L. RUNFT (ISB # 1059)
MARK L. MEANS (ISB # 7530)
RUNFT & STEELE LAW OFFICES, PLLC
1020 W. Main Street, Suite 400
Boise, Idaho 83702
Phone: (208) 333-8506
Fax: (208) 343-3246
Email: jlrnft@runftlaw.com

2007 APR 30 AM 10:15

CLERK OF DISTRICT COURT
SEVENTH JUDICIAL DISTRICT
COUNTY OF BONNEVILLE

Attorneys for Defendant George Hansen

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE**

JAMES R. MEYERS and ANN T.)	
MEYERS, husband and wife,)	
	)	CASE NO. CV 1993-822
Plaintiffs,)	
	)	MOTION FOR STATUS CONFERENCE
vs.)	
)	
JACK LOTT and KATHERINE LOTT,)	
et. al.,)	
)	
Defendants.)	
)	
)	

COMES NOW, Defendant George Hansen by and through his counsel of record, John L. Runft and Marl L. Means of the firm of Runft & Steele Law Offices, PLLC, and moves the Court to set a status conference in the above case. Since counsel for Mr. Hansen has just as of this date first appeared on behalf of Mr. Hansen and because the status of the record in this case involves a civil warrant and other matters of an extraordinary nature, counsel respectfully requests that the status conference be in person and not by telephone and that it be set in the

afternoon of a day so as to avoid an overnight trip by counsel from Boise. Available dates are set forth in Mr. Runft's affidavit in support of this motion, which affidavit is file herewith.

DATED this 25th day of April 2007.

RUNFT & STEELE LAW OFFICES, PLLC

By:


JOHN L. RUNFT

Attorney for Defendant George Hansen

CERTIFICATE OF SERVICE


The undersigned hereby certifies that on this 25th day of April 2007, a true and correct copy of the foregoing **MOTION FOR STATUS CONFERENCE**, was served upon opposing counsel as follows:

Michael D. Gaffney
Beard St. Clair
2105 Coronado Street
Idaho Falls, ID 83404-7495

☒ US Mail
☐ Personal Delivery
☐ Facsimile

RUNFT & STEELE LAW OFFICES, PLLC

By:


JOHN L. RUNFT

Attorney for Defendant George Hansen

2007 APR 30 AM 10:15

JOHN L. RUNFT (ISB # 1059)
MARK L. MEANS (ISB # 7530)
RUNFT & STEELE LAW OFFICES, PLLC
1020 W. Main Street, Suite 400
Boise, Idaho 83702
Phone: (208) 333-8506
Fax: (208) 343-3246
Email: jlrnft@runftlaw.com

Attorneys for Defendant George Hansen

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE**

JAMES R. MEYERS and ANN T.
MEYERS, husband and wife,

Plaintiffs,

vs.

JACK LOTT and KATHERINE LOTT,
et. al.,

Defendants.

)
)
) CASE NO. CV 1993-822

)
) **AFFIDAVIT OF JOHN L. RUNFT IN**
) **SUPPORT OF MOTION FOR STATUS**
) **CONFERENCE**

STATE OF IDAHO)
 :SS
County of Ada)

COMES NOW, John L. Runft, being over the age of eighteen years and competent to make this Affidavit, after first being duly sworn, and upon his own personal knowledge, states as follows:

1. I am an attorney in good standing with the Idaho State Bar and attorney for Defendant George Hansen in the above entitled matter.

AFFIDAVIT OF JOHN L. RUNFT IN SUPPORT OF MOTION FOR STATUS CONFERENCE
Page 1

43
ORIGINAL

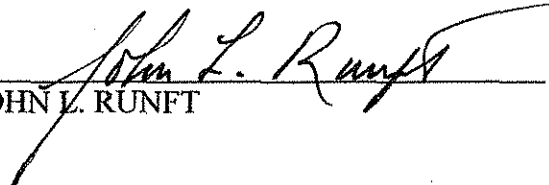
2. We (the law firm of Runft & Steele Law Offices) have only very recently been retained by defendant Hansen to represent him in this case and have not had an opportunity to review the record in this case. We have been limited to telephonic interviews with our client between surgeries and have had the benefit of only some documents sent to us by Mr. Hansen and his relatives.
3. We are advised that Mr. Hansen has been gravely disabled since approximately September of 2006 and medically unable to attend court during settings from November, 2006 to the present time. In this respect, we are advised that Mr. Hansen underwent the first phase of spinal surgery in Washington D.C. in December 2006, and is currently in Washington D.C. undergoing the next phase of spinal surgery. Mr. Hansen and his relatives have supplied us with copies of some of his medical records and his Pro Se papers he filed with this court earlier this month. These papers include Mr. Hansen's affidavit describing his medical condition with attached medical records, the related circumstances of his disability, and his notice, both last fall and currently, to opposing counsel of his medical condition and related circumstances.
4. We propose at the requested status conference to request the court for an opportunity to contact Mr. Hansen's medical care providers and obtain from them appropriate affidavits supporting Mr. Hansen's inability from last fall to the present to personally appear in this matter for examination. Our objective here would be to provide evidence sufficient to support Mr. Hansen's inability to appear for examination as previously ordered, to

demonstrate that there was no contempt of court, and to quash the civil warrant that has been issued against Mr. Hansen.

5. It appears that there may be dispositive procedural matters involved in this case, including, among other things, a previous jury verdict in this case in favor of defendants. While Mr. Hansen is in recovery from his most recent round of surgery, we will request the court to grant us time and leave to investigate these procedural issues and to raise by motion any that appear to be reasonably relevant and material.
6. If the requested status conference could be set in Blackfoot or Idaho Falls for an afternoon setting, Mr. Means and I would be able to drive over from Boise and avoid an overnight trip. Times available for Mr. Means and me for the requested status conference are as follows in the month of May: 8th; 9th; 11th; 15th; 18th; 21st; 22nd; 23rd; and 25th.

Further, your affiant sayeth naught.

DATED this 25th day of April 2007.


JOHN L. RUNFT

STATE OF IDAHO)
 :SS
County of Ada)

SUBSCRIBED AND SWORN unto me this 25th day of April 2007.



Melissa C. Howell
Notary Public for the State of Idaho
Residing at: Mendota, Idaho
My Commission Expires: 4-3-2012


CERTIFICATE OF SERVICE

The undersigned hereby certified that on this 25th day of April 2007, a true and correct copy of the **AFFIDAVIT OF JOHN L. RUNFT IN SUPPORT OF MOTION FOR STATUS CONFERENCE** was served upon opposing counsel as follows:

Michael D. Gaffney
Beard St. Clair
2105 Coronado Street
Idaho Falls, ID 83404-7495

☒ U.S. Mail
☐ Personal Delivery
☐ Via Facsimile

RUNFT & STEELE LAW OFFICES, PLLC

By: 
JOHN L. RUNFT
Attorney for Defendant George Hansen

JOHN L. RUNFT (ISB # 1059)
MARK L. MEANS (ISB # 7530)
RUNFT & STEELE LAW OFFICES, PLLC
1020 W. Main Street, Suite 400
Boise, Idaho 83702
Phone: (208) 333-8506
Fax: (208) 343-3246
Email: jlrnft@runftlaw.com
Attorneys for Defendant George Hansen

FILED IN CHAMBERS AT BLACKFOOT,
BINGHAM COUNTY, IDAHO
May 3, 2007
AT 11:00 a.m.
Darren B. Simpson
DARREN B. SIMPSON
DISTRICT JUDGE

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

JAMES R. MEYERS and ANN T.)	
MEYERS, husband and wife,)	
	)	CASE NO. CV 1993-822
Plaintiffs,)	
	)	ORDER SETTING STATUS CONFERENCE
vs.)	
)	
JACK LOTT and KATHERINE LOTT,)	
et. al.,)	
)	
Defendants.)	
)	
)	

The Court having review Defendant George Hansen's Motion and the Affidavit of John L. Runft in Support of the Motion and good cause appearing herein,

IT IS HEREBY ORDERED that a status conference in this matter shall be held in the above case on May 25, 2007, at 8:30 am and that counsel for the parties shall personally appear.

DATED this 3rd day of May 2007.

Darren B. Simpson
Darren B. Simpson
District Judge

68

CERTIFICATE OF SERVICE

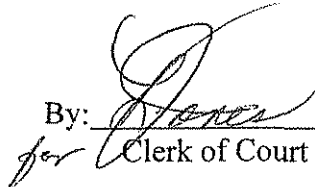
The undersigned hereby certifies that on this ^{3rd} ~~25th~~ day of ^{May} ~~April~~ 2007, a true and correct copy of the foregoing **ORDER SETTING STATUS CONFERENCE**, was served upon opposing counsel as follows:

Michael D. Gaffney
Beard St. Clair
2105 Coronado Street
Idaho Falls, ID 83404-7495

☒ US Mail
☐ Personal Delivery
☐ Facsimile

John L. Runft
Runft & Steele Law Offices, PLLC
1020 W. Main St., Suite 400
Boise, ID 83702

☒ US Mail
☐ Personal Delivery
☐ Facsimile

By: 
for Clerk of Court

Clerk of this Court pursuant to this Court's Order entered on April 3, 2007, be, and the same hereby is quashed; and,

It is hereby further Ordered that the Clerk of the Court shall give notice to the Sheriff of Bonneville County and any other appropriate law enforcement bodies that said Warrant of Attachment has been quashed.

DATED this 8th day of Jan-2008.
~~November 2007.~~

DARREN B. SIMPSON

HONORABLE DARREN B. SIMPSON
District Judge

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 17th day of Jan. 2008, a true and correct copy of the foregoing **ORDER VACATING CONTEMPT ORDER AND QUASHING WARRANT OF ATTACHMENT**, was served upon opposing counsel as follows:

Michael D. Gaffney
Beard St. Clair
2105 Coronado Street
Idaho Falls, ID 83404-7495

☒ US Mail
☐ Personal Delivery
☐ Facsimile

John L. Runft
Runft & Steele Law Offices, PLLC
1020 W. Main St., Suite 400
Boise, ID 83702

☒ US Mail
☐ Personal Delivery
☐ Facsimile

JAEME FREEMAN

By: _____
Clerk of Court

DIS. CT. 111 11213 11213
2000/11/11

8 FEB 27 12:32

JOHN L. RUNFT (ISB # 1059)
KARL J. F. RUNFT (ISB # 6640)
RUNFT & STEELE LAW OFFICES, PLLC
1020 W. Main Street, Suite 400
Boise, Idaho 83702
Phone: (208) 333-8506
Fax: (208) 343-3246
Email: jlrnft@runftlaw.com

Attorneys for Defendant George Hansen

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE**

JAMES R. MEYERS and ANN T.)	
MEYERS, husband and wife,)	
	)	CASE NO. CV 1993-822
Plaintiffs,)	
	)	MOTION FOR RELIEF FROM DEFAULT
vs.	)	JUDGMENT
)	
JACK LOTT and KATHERINE LOTT, et.)	
al.,)	
)	
Defendants.)	
)	
)	

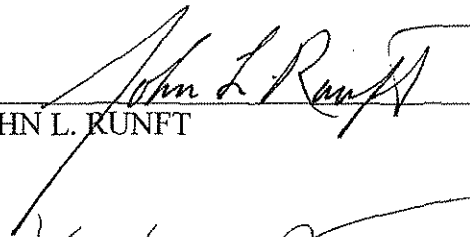
COMES NOW, Defendant George V. Hansen ("Hansen"), by and through his counsel of record, John L. Runft and Karl J. F. Runft, moves this Court under IRCP rule 55(b)(2) and 60(b) and on grounds of laches and violation of procedural due process to grant relief from the Default Judgment entered against Mr. Hansen and to dismiss Mr. Hansen from this action. This Motion is supported by a Memorandum in Support and Affidavits filed herewith.

Oral argument is requested.

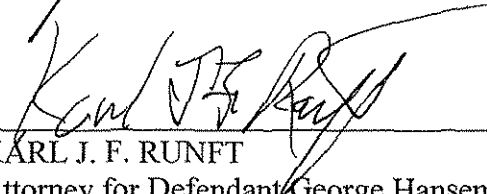
DATED this 25th day of February 2008.

RUNFT & STEELE LAW OFFICES, PLLC

By:


JOHN L. RUNFT

By:


KARL J. F. RUNFT

Attorney for Defendant George Hansen

CERTIFICATE OF SERVICE

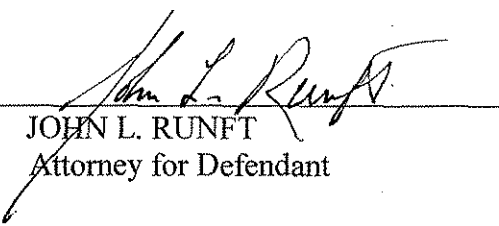
The undersigned hereby certifies that on this 25th day of February 2008, a true and correct copy of the foregoing **ORDER VACATING CONTEMPT ORDER AND QUASHING WARRANT OF ATTACHMENT**, was served upon opposing counsel as follows:

Michael D. Gaffney
Julie Stomper
Beard St. Clair
2105 Coronado Street
Idaho Falls, ID 83404-7495

☒ US Mail
☐ Personal Delivery
☐ Facsimile
☒ Via Email

RUNFT & STEELE LAW OFFICES, PLLC

By: _____


JOHN L. RUNFT

Attorney for Defendant

DISTRICT COURT
BONNEVILLE

8 FEB 27 PM 2:32

JOHN L. RUNFT (ISB # 1059)
KARL J. F. RUNFT (ISB # 6640)
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Email: jlrunt@runftlaw.com

Attorneys for Defendant George Hansen

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE**

JAMES R. MEYERS and ANN T.)	
MEYERS, husband and wife,)	
	)	CASE NO. CV 1993-822
Plaintiffs,)	
	)	BRIEF IN SUPPORT OF MOTION FOR
vs.	)	RELIEF FROM DEFAULT JUDGMENT
)	
JACK LOTT and KATHERINE LOTT, et.)	
al.,)	
)	
Defendants.)	
)	
)	

I.

INTRODUCTION

Based on a default entered in 1993, the Plaintiff in this action is attempting to satisfy a judgment, entered on September 25, 2001, against George Hansen, whose only source of income is his pension and social security. The judgment arises from a default that was taken against George Hansen while he was in federal prison. The real party Plaintiff sued to recover what she

allegedly lost in an investment proposal was Jack Lott. The Plaintiff lost her case against Jack Lott on the merits at trial and is now seeking to collect on the default against Mr. Hansen and his spouse Connie Hansen. However, the default judgment upon which this case is based is seriously flawed and should be set aside on procedural as well as equitable grounds.

II.

BACKGROUND

The Plaintiff filed her case against Jack Lott and George Hansen on February 2, 1993. At the time this suit was filed, Mr. Hansen was in federal prison in Fredericksburg, Virginia. Mr. Hansen was served in Federal prison on August 23, 1993. Mr. Hansen was released from federal prison in 1995. Mr. Hansen appeared pro se in this case when his deposition was taken by Plaintiff's counsel Walter Bithell on April 24, 1997. At that deposition, Mr. Hansen testified that he had not discussed the deposition with any attorney and was not represented by any lawyer. No attorney at the deposition admonished Mr. Hansen that he was still a party in the case. See Exhibit A to the Affidavit of Karl J. F. Runft in Support of the Motion for Relief from Default Judgment, the complete transcript of the Deposition of George Hansen, taken on April 24, 1997. Mr. Hansen was under the impression that he was not a party to the case at that time. See Affidavit of George Hansen in Support of Motion for Relief From Default Judgment.

On July 16, 1999, Plaintiff filed an Ex Parte Application for Default Judgment Against George Hansen with supporting memorandum and an Affidavit of Ann Meyers. No three (3) day notice of application for entry of default to George Hansen or certificate of service or notice of service to George Hansen was filed with the Ex Parte Application for Default as required by I.R.C.P 55(b)(2). See Affidavit of Bonneville County district court clerk Rhonda Quintana. Mr.

Hansen received no notice of this Application for Default. *See* Affidavit of George Hansen. No default judgment was entered pursuant to this default.

After the Plaintiff lost her case at trial against Defendant Mr. Lott in September of 2000, she filed another Application for Default Judgment against Mr. Hansen on September 25, 2001. The District Court entered a Default Judgment Against George Hansen that same day. However, no three (3) day notice of application for entry of default against George Hansen was filed and no certificate of service or notice of service to George Hansen of the Default Judgment was entered or recorded as required by I.R.C.P 55(b)2. *See* Affidavit of Bonneville County district court clerk Rhonda Quintana. Further, the Application and for Default was procedurally deficient in that it contained no written certification of the address for Mr. Hansen for service of the default as expressly required by I.R.C.P 55(b)(2). Mr. Hansen received no notice of this second Application for Default or of the entry of the Default Judgment. *See* Affidavit of George Hansen. No effort was made to enforce the judgment or to notify Mr. Hansen of its existence until after the judgment was renewed five (5) years later.

In May of 2006, the Plaintiff renewed her default judgment against Mr. Hansen and began collection proceedings. Mr. Hansen learned of the default against him in April of 2007 and made an appearance in the case at such time.

III.

THE DEFAULT JUDGMENT IS VOIDABLE AND SHOULD BE SET ASIDE

The Default Judgment upon which this case is founded is procedurally deficient, voidable and, as such, should be set aside as void.

a. No three day notice was provided as required under I.R.C.P. 55(b).

Setting aside a default judgment is committed to the sound discretion of the trial court; absent an abuse of discretion the court's decision will not be disturbed on appeal. *Baldwin v. Baldwin*, 114 Idaho 525, 527, 757 P.2d 1244, 1246 (Ct. App.1988); see I.R.C.P. 55(c) and 60(b). The requirements for setting aside a default judgment under these rules are generally two-fold: first, the moving party must satisfy at least one of the criteria of Rule 60(b); second, generally the party must allege facts which, if established, would constitute a meritorious defense to the action. *Id.*, 114 Idaho at 527, 757 P.2d at 1246.

However, a court's usual discretionary authority to grant or deny such a motion may be greatly narrowed where certain procedural safeguards were not strictly complied with in obtaining the judgment. In such cases a party is entitled to non-discretionary relief as a matter of law. *Deutz-Allis Credit Corp. v. Smith*, 117 Idaho 118, 785 P.2d 682 (Ct. App. 1990). In cases where a party has appeared in the action, default judgment must be taken pursuant to I.R.C.P. 55(b)(2). *Radioear Corp. v. Crouse*, 97 Idaho 501, 547 P.2d 546 (1976). Under this rule, "the party against whom judgment by default is sought ... shall be served with written notice of the application for judgment at least three (3) days prior to the hearing on such application." Entry of a default judgment without the requisite three-day notice of application for the judgment renders the judgment voidable. See *Radioear Corp. v. Crouse*, *supra*; I.R.C.P. 60(b)(1), (3), (6).

As stated in *Knight Ins., Inc. v. Knight*, 109 Idaho 56, 58-59, 704 P.2d 960, 962-963 (Ct. App. 1985),

We first consider whether relief from the default judgment should have been granted. Rule 55(c), I.R.C.P., provides that "[f]or good cause

shown the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with rule 60(b)." In turn, Rule 60(b) enunciates a variety of grounds upon which relief from a judgment may be obtained. Some grounds-such as mistake, inadvertence, surprise or excusable neglect under subsection (b)(1)-allow discretionary relief. **Others, such as the voidness of a judgment under subsection (b)(4), create a nondiscretionary entitlement to relief.** This distinction is critical for appellate review. Where discretionary grounds are invoked, the standard of review is abuse of discretion. Where nondiscretionary grounds are asserted, the question presented is one of law upon which the appellate court exercises free review. Here, for reasons to which we now turn, we believe that nondiscretionary relief should have been granted.

In Idaho, when a default judgment is predicated upon an erroneously entered default, the judgment is voidable. Thus, in *Farber v. Howell*, 105 Idaho 57, 665 P.2d 1067, 1069 (1983), our Supreme Court held that where a default was entered against defendants who had previously appeared but who had not filed responsive pleadings, and where a three-day notice required by I.R.C.P. 55(b)(2) had not been given, the ensuing judgment was voidable under Rule 60(b)(4). By parity of reasoning, this Court has recognized a similar nexus between Rule 60(b)(4) and Rule 11(b)(3), I.R.C.P., which specifies the notice that must be given to parties who have appeared but whose attorneys have been granted leave to withdraw. We have held that noncompliance with Rule 11(b)(3) creates an entitlement to relief from a default judgment. *Lundstrom v. Southern Idaho Pipe and Steel Co.*, 107 Idaho 189, 687 P.2d 579 (Ct.App.1984). In *Lundstrom*, this Court applied an appellate standard of legal error, not a standard of abuse of discretion. Compare *Omega Alpha House Corp. v. Molander Associates, Architects, Inc.*, 102 Idaho 361, 630 P.2d 153 (1981) (applying discretion-based standard where noncompliance with Rule 11(b)(3) was among many grounds asserted for relief).

As this case law reveals, failure to provide a party who has appeared with the three day notice makes any subsequent default voidable, and the court must, as a matter of law, grant relief from that judgment.

There is no dispute in that case that no three-day notice was entered in this case in regards to both applications of default against Mr. Hansen, and Mr. Hansen appeared for the

purposes of I.R.C.P. 50(b)(2) at his deposition. Under *Nickels v. Durbano*, 118 Idaho 198, 795 P.2d 903 (App. Ct. 1990), the Idaho Court of Appeal has interpreted “appearance”, by stating:

In Idaho this appearance is not limited to a formal court appearance. The term has been more broadly defined by *Newbold v. Arvidson*, 105 Idaho 663, 672 P.2d 231 (1983). In *Newbold* the defendant visited the plaintiff's attorney at his office and later attended a deposition. Plaintiff's attorney at the deposition acknowledged that defendant was representing himself. Our Supreme Court held that these facts were sufficient to show an appearance for the purposes of I.R.C.P. 55(b)(2). Essentially, the Court has held that “conduct on the part of the defendant which indicates an intent to defend against the action can constitute an appearance within the meaning of the rule.” *Catledge v. Transport Tire Company, Inc.*, 107 Idaho 602, 606, 691 P.2d 1217, 1221 (1984) (citing *Newbold*).

118 Idaho at 202, 795 P.2d at 907.

In this case, two facts are made clear from Mr. Hansen's deposition in relation to whether Mr. Hansen made an “appearance” for the purpose of Rule 55. The first fact is that neither Mr. Hansen nor Plaintiff's counsel understood or conducted themselves during the deposition as understanding that Mr. Hansen was a defendant in the case. Mr. Hansen was subpoenaed by Plaintiff's counsel to the deposition – an unusual procedure to depose a party. Further, Plaintiff's counsel asked if either Mr. Hansen would appear at trial as a witness or if Plaintiff's counsel needed to subpoena him – again, a very unusual requests to be made to a party. See Exhibit A to the Affidavit of Karl J. F. Runft in Support of the Motion for Relief from Default Judgment, the complete transcript of the Deposition of George Hansen, taken on April 24, 1997, pp. 172-174, lns. 9-13. Further, at no time during the deposition did Plaintiff's counsel inform, ask or mention anything to Mr. Hansen regarding his status as a defendant in the case or his knowledge of the actual court proceedings against him brought by the Plaintiff. Particularly, Mr. Hansen would like to draw the Court's attention to page 16, lns. 8-14, of the deposition where Plaintiff's counsel infers that the deposition is pursuant to a lawsuit Mr.

Hansen is unaware includes him. Also, Mr. Hansen does not mention anywhere in the deposition his understanding that he is a defendant in the case and asks at length about the case, although never learning or being told he is a defendant.¹ *Id.* at pp. 16-22, lns. 15-3. Indeed, at one point in the deposition, Mr. Hansen declares he is no longer liable for any debt to anyone resulting from the investment scheme that was the subject matter of this lawsuit by operation of the statute of limitations. *See Id.* at p. 65, lns. 1-20.

The other fact clear from the deposition is that if Mr. Hansen knew he was a party to the suit, he would have defended against it. This fact is gleaned from the entirety of Mr. Hansen's testimony in the deposition and is directly observed at pp. 176-178, lns. 17-23, where Mr. Hansen makes clear that he does not believe he or Mr. Lott misrepresented the investment scheme in which the Plaintiff invested.

Given these fact from the record, Mr. Hansen did not know and was not made aware he was a defendant in the case, but he made very clear he did not think he was liable for any past conduct that was the subject of the lawsuit. Mr. Hansen appeared in this case and was not afforded the appropriate three (3) day notice under Rule 55. The judgment is void and should be voided by the Court.

b. The Application for Default Violated Rule 55(b).

Rule 55(b) requires that an application for default contain a "written certification of the name of the party against whom judgment is requested and the address most likely to give him notice of such default, and the clerk shall use such address in giving such party notice of judgment." I.R.C.P. 55(b).

¹ Although Mr. Hansen did receive service of summons, he did so while in federal prison and understandably does not recall the service of summons.

The September 2001 Application for Default contains no address for Mr. Hansen. The Application does state it is based upon the July 7, 1999, Affidavit of Ann Meyers filed in this action, however, this document does not contain any address for Mr. Hansen. Subsequently the actual Default Judgment was never sent to Mr. Hansen by the clerk of the court. See Affidavit of Bonneville County district court clerk Rhonda Quintana. Mr. Hansen also has testified in his affidavit in support of this motion that he never received notice of any kind in regard to the entry of the Default Judgment against him. This failure of notice is the direct, logical consequence of Plaintiff's failure to follow the requirement that an address for service be provided with an application for default. Ensuring proper notice is provided is the reason for the rule, the violation of which renders the judgment violable. *Farber v. Howell*, 105 Idaho 57, 665 P.2d 1067, 1069 (1983)(default judgments based upon faulty procedure are voidable).

It is clear the Application for Default and the subsequent Default Judgment were faulty and failed to apprise Mr. Hansen that a default judgment had been entered against him. For this reason, the Default Judgment should be voided by the Court.

c. Further, the default should be set aside under rule 60(b)(4), because Mr. Hansen's right to due process has been violated.

The right to procedural due process guaranteed under both the United States and Idaho Constitutions requires that a person involved in the judicial process be given meaningful notice and a meaningful opportunity to be heard. See *Fuentes v. Shevin*, 407 U.S. 67, 92 S.Ct. 1983, 32 L.Ed.2d 556 (1972); *Boddie v. Connecticut*, 401 U.S. 371, 91 S.Ct. 780, 28 L.Ed.2d 113 (1971); *Mays v. District Court*, 34 Idaho 200, 200 P. 115 (1921). I.R.C.P. 60(b)(4) provides that "[o]n motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: ... (4) the judgment is

void.” The rule requires that a 60(b)(4) motion “be made within a reasonable time.” As explained above, this motion is certainly brought within a reasonable time, since George Hansen had no knowledge of the judgment for over a half a decade after it had been entered, which entry of judgment itself was over eight years after the default had been entered. Further, if a judgment is void, a motion to set it aside may be brought at any time. *See* 11 C. Wright & A. Miller, *Federal Practice and Procedure* § 2862 at 197 (1973) and cases cited therein. Moreover, a void judgment cannot acquire validity because of laches on the part of the judgment debtor (Owens-Corning in this case). *Id.* “A judgment is not void merely because it is erroneous. It is void only if the court that rendered judgment lacked jurisdiction of the subject matter, or of the parties, or if the court acted in a manner inconsistent with due process of law.” *In re Center Wholesale, Inc.*, 759 F.2d 1440, 1448 (9th Cir.1985).

As illustrated above, the Application for Default failed to contain a certified address for Mr. Hansen (IRCP 55(b)(2)), and, as a direct result of this failure to follow this procedural requirement, the default judgment was never sent to him by the clerk of the court as required under IRCP 55(b)(2). Further, Mr. Hansen was also not provided with the required three (3) day notice under Rule 55. These complete failures of notice deprived Mr. Hansen of any opportunity to defend the action when he got out of prison under the procedures afforded litigants under IRCP 60. The default judgment in this case was obtained in a summary manner, disregarding the minimal procedural safeguards set forth in IRCP Rule 55 to ensure that a person against whom a default judgment is sought at least be given some opportunity to defend himself.

Mr. Hansen was not afforded these protections and now there is no possible way Mr. Hansen could defend himself given the passage of time.²

The Default Judgment has directly violated Mr. Hansen's due process rights and should be set aside.

d. In the alternative, relief should be granted under Rule 60(b)(5).

To rely on Rule 60(b)(5), a movant must show two things: (1) that the judgment is prospective in nature; and (2) that it is no longer equitable to enforce the judgment as written.

See Rudd v. Rudd, 105 Idaho 112, 666 P.2d 639 (1983). I.R.C.P. 60(b)(5) reads:

On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: ... (5) ... it is no longer equitable that the judgment should have prospective application

Idaho's rule and the federal rule are identical, and Moore's Federal Practice, § 60.26[4], p. 337, has stated:

[T]he breadth of (b)(5) is broad and encompasses any *final* judgment having prospective application.... [T]he crucial issues are whether the judgment has prospective application and whether it is no longer equitable that it have such application. Thus 60(b)(5) is applicable to a declaratory judgment insofar as the judgment ... operates prospectively. When it is inequitable that a judgment should continue to be a lien on the judgment debtor's property, relief from the lien may be given. And in any other situation when the judgment has prospective application relief may be given from its prospective features when subsequent events make it no longer equitable that the judgment have prospective application.

² The events underlying the actual Complaint in this case transpired in 1989 and 1990. *See* Plaintiff's Amended Verified Complaint. Seventeen years have passed, invoking under these circumstances the application of the doctrine of laches. *Thomas v. Arkoosh Produce, Inc.*, 137 Idaho 352, 48 P.2d 1241 (2002).

The equitable reason the judgment should not have prospective application is rooted in the equitable doctrine of laches.

The elements of laches are: (1) defendant's invasion of plaintiff's rights; (2) delay by plaintiff in asserting plaintiff's rights, the plaintiff having had notice and an opportunity to institute action; (3) lack of knowledge by the defendant that plaintiff would assert his or her rights; and (4) injury or prejudice to the defendant in the event relief is accorded to plaintiff or the suit is not held to be barred. In determining whether the doctrine of laches applies, consideration must be given to all surrounding circumstances and acts of the parties. *Thomas v. Arkoosh Produce, Inc.*, 137 Idaho 352, 48 P.2d 1241 (2002).

As stated, plaintiff filed her suit in 1993. Plaintiff waited until 2001 to make her Application for a Default Judgment. This Application was procedurally faulty and defective for reasons stated above. Yet, in any event, the Plaintiff waited until 2007 to even begin executing on the faulty Default Judgment. The events underlying the actual Complaint in this case transpired in 1989 and 1990. See Plaintiff's Amended Verified Complaint. Seventeen years passed before Plaintiff acted on her rights. Defendant, as shown above, had no knowledge the Plaintiff was going to exercise her rights. The doctrine of laches would be a meritorious defense to the underlying suit.

It is axiomatic that default judgments are not favored in Idaho and that relief should be granted in doubtful cases. *Johnson v. Pioneer Title Co.*, 104 Idaho 727, 662 P.2d 1171 (Ct. App. 1983). This is more than a doubtful case. This "voidable" default judgment should be deemed void and the relief requested by Defendant granted.

IV.

MR. HANSEN SHOULD BE DISMISSED FROM THE ACTION

If Mr. Hansen is granted relief from the Default Judgment, Mr. Hansen asks that he should be dismissed as a Defendant in the above action on the grounds of laches. *Thomas v. Arkoosh Produce, Inc.*, supra. As stated, seventeen years have passed since the events underlying the facts of this case. Defendant, as shown above, had no knowledge the Plaintiff was going to exercise her rights. It would be impossible for Mr. Hansen to defend against any suit brought by Plaintiff against him if she attempted to reopen the suit. The Court should dismiss the suit against Mr. Hansen.

V.

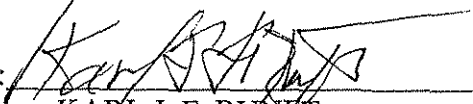
CONCLUSION

The Default Judgment in this case was entered in contravention of essential provisions of Rule 55(b). As a matter of law the judgment is voidable and should be stricken. In the alternative, Mr. Hansen should be granted relief from the Default Judgment under Rule 60(b)(1). Further, the Court should dismiss Mr. Hansen as a Defendant altogether from the lawsuit.

DATED this 25th day of February 2008.

RUNFT & STEELE LAW OFFICES, PLLC

By: 
JOHN L. RUNFT

By: 
KARL J. F. RUNFT
Attorneys for Defendant George Hansen

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 25th day of February 2008, a true and correct copy of the foregoing BRIEF IN SUPPORT OF MOTION FOR RELIEF FROM DEFAULT JUDGMENT, was served upon opposing counsel as follows:

Michael D. Gaffney
Julie Stomper
Beard St. Clair
2105 Coronado Street
Idaho Falls, ID 83404-7495

☒ US Mail
☐ Personal Delivery
☐ Facsimile
☒ Via Email

RUNFT & STEELE LAW OFFICES, PLLC

By:



JOHN L. RUNFT

Attorney for Defendant

or notice of service to George Hansen filed with the Application for Default Judgment and the Default Judgment entered against Mr. Hansen on September 25, 2001.

Further, your affiant sayeth naught.

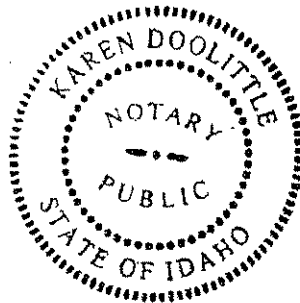
DATED this 22nd day of January, 2008.

By:

Rhonda Quintana

STATE OF IDAHO)
 :SS
County of Bonneville)

SUBSCRIBED AND SWORN to before me this 22nd day of January 2008.



Karen Doolittle
Notary Public for the State of Idaho

Residing at: Idaho Falls

My Commission Expires: 2-24-2010

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JOHN L. RUNFT (ISB #1059)
KARL J. F. RUNFT (ISB #6640)
RUNFT & STEELE LAW OFFICES, PLLC
 1020 W. Main Street, Suite 400
 Boise, Idaho 83702
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 Fax: (208) 343-3246
 Email: kirunft@runftlaw.com

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE**

JAMES R. MEYERS and ANN T.
MEYERS, husband and wife,

Plaintiffs,

VS.

JACK LOTT and KATHERINE LOTT,
et. al.,

Defendants.

CASE NO. CV 1993-822

AFFIDAVIT OF GEORGE V. HANSEN

STATE OF IDAHO)

135

County of Bonneville)

COMES NOW, George V. Hansen, being over the age of eighteen years and competent to make this Affidavit, after first being duly sworn, and upon his own personal knowledge, states as follows:

1. That I am named Defendant in the above captioned case.

2. That when this case was initially filed on June 8, 1993, I was in federal prison in Fredericksburg, Virginia serving a four year sentence.
3. That I acknowledge the record shows I was personally served with service of process in federal prison on August 8, 1993, I have no recollection of being personally served.
4. That while I was in federal prison I did not have the capacity or resources to obtain legal counsel to defend against the above captioned case taking place in Idaho.
5. That I was release from federal prison in 1995.
6. That on March 21, 1997, a notice of my audio visual deposition was filed with the Court.
7. That my deposition was taken by Plaintiff's counsel in the above lawsuit on April 24, 1997.
8. That at my deposition, I was under the belief and understanding that I was not a defendant in the case.
9. That at no time in the deposition did any attorney or party warn or admonish me that I was a party to the case.
10. That I did not consult with any attorney regarding the deposition and I was not represented by an attorney at the deposition.
11. That I never received a copy or notice of the Default Judgment entered against me.

CERTIFICATE OF SERVICE


The undersigned hereby certified that on this 25th day of February 2008, a true and correct copy of the **AFFIDAVIT OF GEORGE V. HANSEN** was served upon opposing counsel as follows:

Michael D. Gaffney
Julie Stomper
Beard St. Clair
2105 Coronado Street
Idaho Falls, ID 83404-7495

☒ US Mail
☐ Personal Delivery
☐ Facsimile
☒ Via Email

RUNFT & STEELE LAW OFFICES, PLLC

By:

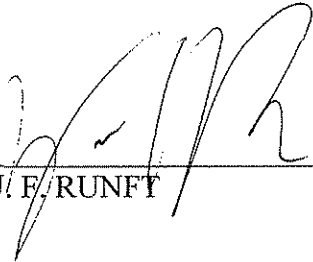

JOHN L. RUNFT
Attorney for Defendant

8 FEB 27 192:33

2. That attached as Exhibit "A" is a true and correct copy of the Deposition of
George Hansen, taken in this case on April 24, 1997.

Further, your affiant sayeth naught.

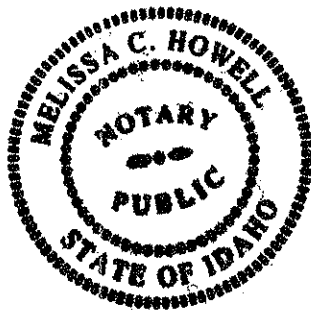
DATED this 22 day of February 2008.




KARL J. F. RUNFT

STATE OF IDAHO)
 :SS
County of Ada)

SUBSCRIBED AND SWORN unto me this 22 day of February 2008.





Notary Public for the State of Idaho
Residing at: Boise Idaho
My Commission Expires: 4-3-2012

CERTIFICATE OF SERVICE

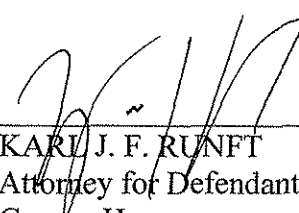
The undersigned hereby certified that on this 2 day of February 2008, a true and correct copy of the **AFFIDAVIT OF KARL J. F. RUNFT IN SUPPORT OF MOTION FOR RELIEF FROM DEFAULT JUDGMENT** was served upon opposing counsel as follows:

Michael D. Gaffney
Beard St. Clair
2105 Coronado Street
Idaho Falls, ID 83404-7495

☒ U.S. Mail
☐ Personal Delivery
☐ Via Facsimile

RUNFT & STEELE LAW OFFICES, PLLC

By: _____


KARL J. F. RUNFT
Attorney for Defendant
George Hansen